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**'Designs against a common foe'
the Anglo-Qing suppression of piracy in South China**

Kwan, Nathan

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Abstract of thesis entitled
**‘Designs against a Common Foe’:
The Anglo-Qing Suppression of Piracy in South China**
Submitted by
C. Nathan Kwan
for the degree of Doctor of Philosophy
at The University of Hong Kong and King’s College London
in June 2020

By the nineteenth century British and Qing authorities had developed distinct understandings of piracy and means for its suppression. The British colonisation of Hong Kong in 1842 brought these two systems into contact. After establishing sovereignty over their new colony, British officials, by headquartering the Royal Navy’s East Indies and China Station at Hong Kong and establishing a Vice-Admiralty Court there, developed the means of projecting their authority over Hong Kong's surrounding waters and exercising state power at sea. The prevalence of piracy in British and Chinese sources, however, suggests that British maritime control was limited. Piracy threatened British and Qing interests in South China and became a basis for cooperation. Though British and Qing officials were often suspicious of each other’s motives in the nineteenth century, they nonetheless cooperated against a common foe: Chinese pirates.

Anglo-Qing cooperation against pirates created a nexus between British colonial and consular authorities, officers of the Royal Navy, and local and metropolitan Qing officials that challenges traditional narratives of gunboat diplomacy. The relationship between Britain and China was far more complicated than the former using the threat of naval intervention to extract concessions from the latter. British naval hegemony complemented Qing deficiencies, while Qing officials' local intelligence and criminal justice system made them more efficient at punishing pirates. These complementary aspects of the British and Qing maritime states developed into a cooperative system in which British and Qing officials engaged with each other’s understandings of piracy, maritime control, and international law. This system

developed and persisted despite misunderstandings and conflicts between its participants. Using records and archival materials in English and Chinese, this thesis looks at Anglo-Qing relations through the prism of their efforts in suppressing piracy. It argues that such efforts produced a 'collaborative imperial hierarchy', in which Royal Navy ships helped uphold Qing and treaty law in Chinese waters. Agents of the British and Qing empires cooperated in an attempt to establish control over the waters of South China. This thesis investigates the implications this collaboration had for imperialism and international law in nineteenth-century China.

(343 words)

**‘Designs against a Common Foe’:
The Anglo-Qing Suppression of Piracy in South China**

by

C. Nathan Kwan

關正衍

BA and BS, *UT Austin*; AM, *Harvard*

A thesis submitted in partial fulfilment of the requirements for
the Degree of Doctor of Philosophy
at The University of Hong Kong and King’s College London

June 2020

會剿拿獲賊匪甚眾。擒獲生供多名。足徵志切同仇。

The number of pirates annihilated and captured are exceedingly many and a large number have been taken alive. This is sufficient evidence of sincere designs against a common foe

- Ye Mingchen to Sir John Bowring in response to an international expedition against pirates at Coulan, Xianfeng reign fourth year, tenth month, eighteenth day (7 December 1854)

Declaration

I declare that this thesis represents my own work, except where due acknowledgement is made, and that it has not been previously included in a thesis, dissertation, or report submitted to this University or to any other institution for a degree, diploma, or other qualifications.

Signed: _____

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Introduction:

Piracy and Imperial Hydrarchy

One night in early February 1800, a Chinese boat approached HMS *Providence*, a Royal Navy schooner that had anchored at Whampoa (Huangpu), thirteen miles downriver from Canton (Guangzhou). The officer on watch suspected that the boat's crew were attempting to cut the anchor cable and opened fire injuring a crewmember named Jiang Yayou. A boat from the *Providence* overhauled the Chinese vessel, and during the encounter another crewmember, Liu Yashi, jumped overboard and presumably drowned. The customs superintendent (*haiguan*) at Canton requested that the Select Committee of the East India Company (EIC) at Canton forward the 'yi [barbarian] criminals' involved in the *Providence* affair to Canton for trial.¹ The subsequent interactions between agents of the EIC, Royal Navy officers, and Qing officials reveal the discrepancies between British and Qing understandings of piracy, which forms basis of this thesis.

Before 1834, the EIC mediated relations between Britain and Qing China (1644-1912). Now, the Royal Navy's senior naval officer in China, Captain John Dilkes, as a servant of the British Crown rather than the Company, decided to personally intervene and 'rest the dispute between the King of England and the Emperor of China'.² The governor-general (*zongdu*, known in contemporary English sources as the viceroy) of the provinces of Guangdong and Guangxi, the governor (*xunfu*) of Guangdong, and the customs superintendent (known as the Hoppo), the highest Qing authorities at Canton, understood the *Providence* affair as one in

¹ Edict from the Haiguan, Jiaqing (JQ) reign 5th year/1st month/27th day (20 February 1800), Foreign Office Records (FO) Consulates and Legations, China: Miscellaneous Papers and Reports (233)/189, 222-223, The National Archives (TNA), Kew, UK. Entry for 12 February 1800, India Office Records (IOR)/ Factory Records: China and Japan (G/12)/128, 30-31, the British Library (BL), London, UK. British sources give the date of the occurrence as the 11 February while Chinese sources record it happening on 10 February. I will provide Chinese names in pinyin when possible but will use contemporary romanisations of Cantonese names (e.g. 'Canton', 'Hong Kong') for places in the Canton Delta and others commonly used in English sources.

² Dilkes to the Select Committee, 22 February 1800, IOR/G/12/128, 69. On the sovereign and diplomatic powers of the EIC see Philip J. Stern, *The Company State: Corporate Sovereignty and the Early Modern Foundations of the British Empire in India* (Oxford: Oxford University Press, 2011).

which ‘barbarian criminals in the dark mistook a boat for a pirate, and without carefully looking into the matter had the audacity to open fire without authority and injure a subject of China’. Furthermore, the Canton authorities believed that the sailors responsible ‘should follow the laws of the Celestial Empire and come for trial’.³

Dilkes and George Thomas Staunton, an EIC clerk, attended the trial of those involved in the *Providence* affair. Though Dilkes never explicitly accused the Chinese attacked by HMS *Providence* of piracy, he nonetheless believed ‘the laws of all civilized Countries on this head... were nearly similar and he had no doubt but the persons who had made such an attempt on H.M. Vessel would be brought to punishment’.⁴ In referencing the ‘laws of all civilized Countries’, Dilkes invoked the rhetoric around the pirate as *hostis humani generis*, ‘the enemy of all mankind’, a notion that had been developing in Europe since the time of Cicero. In this conception, pirates, by nature of taking to the seas to engage in indiscriminate plunder, were beyond the pale of civilisation and the laws governing it. As the European law of nations, which formed the basis of a universal system of international law, considered pirates as lawless figures outside of its order, any state had a right to suppress piracy.⁵

Considering the Chinese who sailed by HMS *Providence*’s anchor cable among this class of criminal, Dilkes believed the *Providence* had a right to attack them and that the Chinese, rather than the officer who fired at them, were in the wrong. He thus tried to turn the trial of British subjects into an investigation of Chinese pirates. When Qing judicial officers refused to do so, he began interrogating witnesses himself, an act for which he and Staunton were evicted from

³ Edict from the Governor-General, Governor, and Hoppo, JQ 5/2/8 (3 March 1800), FO 233/289.

⁴ Entry for 24 February 1800, IOR/G/12/128, 73.

⁵ See Daniel Heller-Roazen, *The Enemy of All: Piracy and the Law of Nations* (New York: Zone Books, 2009). Lauren Benton, ‘Toward a New Legal History of Piracy: Maritime Legalities and the Myth of Universal Jurisdiction’, *International Journal of Maritime History* 12, no. 1 (June 2011), 227. Alfred P. Rubin, *The Law of Piracy* (Newport, RI: Naval War College Press, 1988), 11, 82-86. Christopher Harding, ‘“*Hostis Humani Generis*” – The Pirate as Outlaw in the Early Modern Law of the Sea’ in *Pirates?: The Politics of Plunder, 1550-1650*, ed. Claire Jowitt (Basingstoke: Palgrave Macmillan, 2007), 20-24. On the universality of international law, emerging from the interaction between the law of nations and Europe’s interactions with non-European states, see Arnulf Becker Lorca, *Mestizo International Law: A Global Intellectual History, 1842-1933* (Cambridge: Cambridge University Press, 2014), 43-45.

the court.⁶ The sailors of the *Providence* were the first British subjects to attend a trial in China in which they had their own interpreter. Though it did not go as Dilkes and Staunton had hoped, the result of the trial showed how British understandings of piracy and international law differed with and had an impact on the exercise of Qing law and helped change the dynamics of Sino-Western relations at Canton.⁷ In the end, the provincial officials decided to drop charges against the sailors of the *Providence* but requested that ‘all Europeans might be forbidden to fire with Ball at Boats that approached the Ships with however suspicious a design’. Despite this prohibition, the Canton authorities did not entirely prevent British forces from taking actions against Chinese pirates and allowed the Royal Navy to ‘keep them at distance by firing blank Cartridges or apprehend the Crew and detain them on board for a subsequent examination by the Officers of Justice’.⁸

The confusion in the HMS *Providence* affair reveals differing understandings of piracy between the British and Qing empires. The Canton authorities’ acknowledging that Jiang Yayou and Liu Yashi, whom the officer of the *Providence* mistook for pirates, were Qing subjects contradicted British understandings of pirates as stateless enemies of all. Qing officials did not believe the British had the right to attack Chinese subjects, piratical or otherwise. Captain Dilkes on the contrary believed that ‘the laws of all civilized nations’ justified a violent response. Despite these differences, Qing authorities, whose disparate and often inferior naval forces struggled to deal with the problem of piracy in Chinese waters, proved willing to allow Royal Navy ships to detain Chinese pirates and deliver them to Qing jurisdiction.⁹ Though British and Qing officials had different understandings of piracy and the extent of their jurisdiction over it,

⁶ Staunton to the Select Committee, 13 March 1800, IOR/G/12/128, 124.

⁷ Li Chen, *Chinese Law in Imperial Eyes: Sovereignty, Justice, and Transcultural Politics* (New York: Columbia University Press, 2016), 79-82. In 1757, the Qing restricted all foreign trade, with the exception of that of the Russians and Japanese, to the port of Canton. Paul A. Van Dyke, *The Canton Trade: Life and Enterprise on the China Coast, 1700-1845* (Hong Kong: Hong Kong University Press, 2007), 16. On international interactions at Canton see John M. Carroll, ‘The Canton System: Conflict and Accommodation in the Contact Zone’, *Journal of the Royal Asiatic Society Hong Kong Branch* 50 (2010), 51-66.

⁸ Entry for 22 March 1800, IOR/G/12/128, 139.

⁹ On the inefficacy of Qing naval forces, see Robert J. Antony, ‘Pacification of the Seas: Qing Anti-Piracy Policies in Guangdong, 1794-1810’, *Journal of Oriental Studies* 32 (1994), 24-25.

Chinese pirates were a common foe to both. Confusion, conflict, and compromise would characterize interactions between the British and Qing empires in dealing with piracy for the rest of the century.

Common Enemy, Collaborative Solution

This thesis argues that piracy, as a problem that threatened Qing order and British trade, provided an arena for cooperation between Britain and China in an age where the narrative of gunboat diplomacy often characterises Anglo-Qing relations.¹⁰ Few studies have looked at the interaction between Britain and China in suppressing piracy after 1810. The only book focusing on the topic remains Grace Fox's *British Admirals and Chinese Pirates, 1832-1869*, published in 1940.¹¹ Though thoroughly engaging with Admiralty records, Fox limited her research to English-language material, largely leaving out the Qing perspective and involvement. Murakami Ei, focusing on Fujian, looks at interactions between local Qing officials and the Royal Navy, claiming that the cooperation between the two amounted to the Qing administration's co-opting of the power of the Royal Navy.¹² Jonathan Chappell looks Anglo-Qing interactions in suppressing piracy in China, focusing on its legal dimensions and its significance for changing Qing understandings of piracy. He notes that Hong Kong, as a British colony, played an

¹⁰ On gunboat diplomacy in China see John Y. Wong, 'The Limits of Naval Power: British Gunboat Diplomacy in China from the *Nemesis* to the *Amethyst*, 1839-1949', *War & Society* 18, no. 2 (October 2000), 93-120. On gunboat diplomacy more generally, see Thomas G. Otte, 'Of Congresses and Gunboats: Military Intervention in the Nineteenth Century' in *Military Intervention: From Gunboat Diplomacy to Humanitarian Intervention*, ed. Andrew M. Dorman and Thomas G. Otte (Aldershot: Dartmouth Publishing Company, 1995), 36-37. Anthony Preston and John Major, *Send a Gunboat: The Victorian Navy and Supremacy at Sea, 1854-1904*, revised edition (London: Conway, 2007), 14-17. The term 'gunboat diplomacy' was coined by James Cable in James Cable, *Gunboat Diplomacy: Political Applications of Limited Naval Force* (London: Institute of Strategic Studies, 1971).

¹¹ Grace Estelle Fox, *British Admirals and Chinese Pirates, 1832-1869* (London: K. Paul, Trench, Trubner & Co., 1940).

¹² Murakami Ei, *Haiyang shishang de jindai Zhongguo: Fujianren de huodong yu Yingguo, Qingchao de yinying* [A Modern Maritime History of China: Fujianese Activity and British and Qing Responses], trans. Wang Shilun (Beijing: Social Sciences Academic Press, 2013), Chapter Three. Idem, 'Shijiu shiji zhongye Huanan yanhai zhixu de chongbian: Min-Yue haidao yu Yingguo haijun [Reassessing Order on the South China Coast in the Mid-Nineteenth Century: Guangdong and Fujian Pirates and the Royal Navy]', *Zhongguo shi yanjiu* 44 (October 2006), 131-145.

important role in these developments.¹³ Hong-kay Lung's MA thesis also discusses the British suppression of piracy around Hong Kong.¹⁴ All these works address aspects of what this thesis terms a 'collaborative imperial hydrarchy' in which British and Qing officials cooperated and coordinated their efforts against Chinese pirates to check criminality and jointly enforce law and order among the seafaring community off the coast of South China. Only Murakami focuses on cooperation between Britain and China, and he does not discuss the effect this had on both sides' understanding of each other's views on piracy and the wider worldviews from which these were derived.

In the nineteenth century, the differing understandings and methods of handling pirates in the Qing and British empires adapted to each other as the two sides interacted to deal with the common problem of piracy. Britain, particularly after the colonisation of Hong Kong, and China both attempted to exert control over Chinese pirates. Neither proved capable of doing so unilaterally. Qing officials lacked a strong and organised naval force with which to suppress piracy. Britain's Royal Navy was the most powerful navy in the world, but British officers lacked familiarity with the islets and inlets of the coast of Guangdong. Additionally, the dictates of maritime and international law limited the actions the British warships could take against pirates in foreign waters.

As this thesis will show, British and Qing deficiencies in Guangdong were complementary. Qing officials' familiarity with and sovereignty over the coast of China and its surrounding waters, when bolstered by the might of the Royal Navy, could be an effective check on piracy, a perennial problem in South China. Unfortunately, British warships, at least from the time of the *Providence* incident, raised suspicion. That the British acquired the headquarters of their East Indies and China Station at Hong Kong during the first Opium War (1839-1842) caused further mistrust. As piracy became more frequent and its effects felt by British and Qing subjects and authorities alike, however, British colonial officials at Hong Kong, diplomats at the treaty

¹³ Jonathan Chappell, 'Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842-1869', *The International History Review* 40, no. 3 (2018), 473-492.

¹⁴ Hong-kay Lung, 'Britain and the Suppression of Piracy on the Coast of China with Special Reference to the Vicinity of Hong Kong, 1842-1870' (MPhil diss., University of Hong Kong, 2001).

ports and Beijing, and Royal Navy officers discussed the matter of piracy with their Qing counterparts and cooperated in its suppression. Desperation and convenience may have motivated these interactions, but they brought British and Qing understandings of piracy into contact, requiring compromise between the two.

Despite possessing the might of the Royal Navy and a pretence to ‘rule the waves’ in the nineteenth century, Britain struggled to protect its colony of Hong Kong from the pirates who often really *did* rule the waves off the coast of South China in defiance of Chinese state authority. As in much of their territorial empire, British agents would need collaborators to exert power over the China Seas.¹⁵ Unlike territory on land, however, sea space, with few exceptions, could not be owned by a single entity. States could patrol and control areas of the sea without diminishing the rights of other states in the same space.¹⁶ Rather than having to find collaborators among those under its sovereignty, Britain could collaborate with other, independent entities to exert power over sea space. In the waters around Hong Kong, the ideal candidate as a collaborator to control such space was the Qing Empire. To hold authority over the waters off the South China coast and wrest control from pirates, the British and Qing empires collaborated in suppressing piracy, and the regimes that each had developed to assert power at sea interacted and mutually influenced each other in the process.

This thesis, using English and Chinese language materials, examines the Anglo-Qing collaboration against piracy. It sets these interactions in the broader context of the inter-imperial relations between Britain and China. To do so, it consults a variety of British naval, diplomatic, and colonial records as well as Qing sources from local and central government officials. Incorporating perspectives from London, Beijing, Hong Kong, Kowloon (Jiulong), Canton, and

¹⁵ The classic introduction to collaborators in the British Empire is Ronald Robinson, ‘Non-European Foundations of European Imperialism: Sketch for a Theory of Collaboration’ in *Imperialism: The Robinson and Gallagher Controversy*, ed. Wm. Roger Louis (New York: New Viewpoints, 1976), 118-140. On collaboration in Hong Kong see Law Wing Sang, *Collaborative Colonial Power: The Making of the Hong Kong Chinese* (Hong Kong: Hong Kong University Press, 2009) and John M. Carroll, ‘Colonialism and Collaboration: Chinese Subjects and the Making of British Hong Kong’, *China Information* 12, no. 1/2 (Summer/Autumn, 1997), 12-33.

¹⁶ Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900* (Cambridge: Cambridge University Press, 2010), 123.

the treaty ports of Guangdong, this thesis assesses the diplomatic, legal, strategic, and practical developments underpinning the Anglo-Qing collaboration in controlling the waters of Guangdong. It examines an often-neglected aspect of cooperation between the British and Qing empires in the nineteenth century. The common foe of the pirate brought about confrontation, compromise, and collaboration between the differing systems of international law and world order of imperial Britain and Qing China.

Understandings of Piracy and Its Suppression in the British and Qing Empires

By the nineteenth century, Britain and China had long histories of dealing with private prize-taking at sea and had developed different understandings and means of suppressing it.¹⁷ Certain similarities between the British and Qing states' interactions with pirates nonetheless stand out and would lay a foundation for cooperation against this common foe. For both, pirates were a menace to control and order and thus a matter to be dealt with by state power. Suppressing piracy entailed extending British and Chinese law seaward. In dealing with pirates, both polities developed a consistent vocabulary to describe piracy that had legal implications albeit in very different contexts.¹⁸ British law, building on classical traditions, considered pirates *hostes humani generis*, stateless enemies of all under universal jurisdiction and believed that any state had a right to attack and try pirates.¹⁹ Qing authorities understood piracy differently. A sub-statute of the Great Qing Code (*Da Qing lüli*) equates 'great bandits who plunder on rivers and oceans' with 'mounted robbers', criminals punishable by decapitation. In this conceptualization,

¹⁷ David J. Starkey coined the term 'private prize-taking at sea' to describe maritime raiding and to dissociate 'piracy' from its cultural and political connotations during his keynote address at the conference 'The Problem of Piracy: An Interdisciplinary Conference on Plunder by Sea Across the World from the Ancient to the Modern' at the University of Strathclyde, Glasgow, 24-26 June 2019. On the problematics of applying the term 'piracy' to Asian seafaring see Anthony Reid, 'Violence at Sea: Unpacking "Piracy" in the Claims of States over Asian Seas' in *Elusive Pirates, Pervasive Smugglers: Violence and Clandestine Trade in the Greater China Seas*, ed. Robert Antony (Hong Kong: Hong Kong University Press, 2010), 15-26. This work will use the term 'piracy' to describe any act of robbery at or from the sea.

¹⁸ Patricia Risso, 'Cross-Cultural Perceptions of Piracy: Maritime Violence in the Western Indian Ocean and Persian Gulf Region during a Long Eighteenth Century', *Journal of World History* 12, no. 2 (Fall, 2001), 298-299.

¹⁹ See Rubin, *Law of Piracy*, 94. Benton, 'Toward a New Legal History', 225.

Chinese pirates were like any other type of criminal in the Qing Empire and solely within the jurisdiction of Qing officials.²⁰ The contrasts between British and Qing understandings of piracy, which came to a head during the *Providence* affair, were the result of differing legal conceptualisations of piracy and divergent maritime histories.

From Pirates of the Caribbean to Ladrones of the Canton Delta

Though British jurists saw piracy as a crime in international law, they prosecuted it as a crime under municipal law.²¹ The Offences at Sea Act of 1536 established English Admiralty jurisdiction over 'traytors, pirates, thieves, robbers, murtherers and confederates upon the sea... or in any haven, river, creek, or place where the admiral or admirals have or pretend to have power, authority or jurisdiction'.²² Through this act, English (later British) authorities established a right to try any and all pirates at the Court of Admiralty in London. Municipal law had international implications. By 1696, Charles Hedges, a judge in the English Admiralty Court, asserted that:

the king of England hath not only an empire and sovereignty over the British seas, but also an undoubted jurisdiction and power, in concurrency with other princes in states, for the punishment of all piracies and robberies at sea, in the most remote parts of the world.²³

British monarchs struggled to exercise this jurisdiction over pirates, especially with the expansion of their maritime empire. While early English maritime activity, particularly that of the Elizabethan 'sea dogs', shared many aspects in common with piracy, by the eighteenth century pirates competed with states for access to a globalising economy and became a problem

²⁰ Quoted in Robert J. Antony, *Unruly People: Crime, Community, and State in Late Imperial South China* (Hong Kong: Hong Kong University Press, 2016), 199. Reid, 'Violence at Sea', 17.

²¹ Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800-1850* (Cambridge, MA: Harvard University Press, 2016), 119-120.

²² 28 Hen. VIII. c. 15. See Rubin, *Law of Piracy*, 37-38.

²³ *Rex v. Dawson* (1696) quoted in Rubin, *Law of Piracy*, 85. The ill-defined 'British seas' roughly comprised the English Channel. England claimed control over the whole of the English Channel in 1201. R.P. Anand, *Origin and Development of the Law of the Sea* (The Hague: Martinus Nijhoff, 1983), 84-85.

for the British Empire.²⁴ The system of capturing pirates and sending them to the Admiralty Court in London proved ineffective and expensive. To facilitate the exercise of jurisdiction over pirates in the most remote parts of the world, in 1700, Westminster passed ‘An act for the more effectuell Suppression of Piracy’. The act permitted Vice-Admiralty commissions in ‘any Place at Sea or upon the Land of His Majesties [sic] Islands Plantations Colonies Dominions Forts or Factories’ to try pirates on the spot rather than sending them for trial at the Admiralty Court in London.²⁵ The establishment of Vice-Admiralty Courts in Crown possessions beyond the British Isles facilitated the Royal Navy’s suppression of piracy in the waters around the territories of the expanding British Empire.

The extension of British legal authority to territorial possessions overseas was partly a response to the emergence of an unruly class of seafarers that developed alongside the expansion of Britain’s maritime trade and empire. In the early seventeenth century, Richard Brathwaite, an upper-class English writer with Royalist sympathies, commented that the ‘sayler’ was ‘an otter; an amphibium [sic] that lives both on land and water’. For such an amphibium, ‘no coast holds it selfe to bee of more firme land’, and ‘affaires of state are above his sconce’. As a result of being ‘many times so long on sea’, the sailor often ‘forgets his friends by land’, and those of his ilk instead became ‘agents of maine importance in that *hydrarchy* wherein they live’.²⁶ The unruliness and lack of terrestrial loyalty of hydrarchy, or seafaring society, meant its members often had piratical proclivities, particularly in the Atlantic Ocean.²⁷ The British state responded to Atlantic pirates with the imposition of what Peter Linebaugh and Marcus Rediker call ‘imperial hydrarchy’, the extension of state power over seafarers. Various laws and regulations,

²⁴ Janice E. Thomson, *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe* (Princeton, NJ: Princeton University Press, 1994), 23, 140. Robert C. Ritchie, ‘Government Measures against Piracy and Privateering in the Atlantic Area, 1750-1850’ in *Pirates and Privateers: New Perspectives on the War on Trade in the Eighteenth and Nineteenth Centuries*, ed. David J. Starkey, E.S. van Eyck van Heslinga, J.A. De Moor (Exeter: University of Exeter Press, 1997), 10-12.

²⁵ 11 & 12 Wil. III. c. 7 in *The Statutes of the Realm*, vol. 7 (London: Dawsons, 1820), 590-591. Rubin, *Law of Piracy*, 100-101.

²⁶ Richard Brathwaite, *Whimzies; or a New Cast of Characters* (original edition published 1631; republished London: Thomas Richards, 1859), 85-89. Emphasis added.

²⁷ See Marcus Rediker, ‘Hydrarchy and Libertalia: The Utopian Dimensions of Atlantic Piracy in the Early Eighteenth Century’ in *Pirates and Privateers*, ed. Starkey et al, 29-47.

backed by violence, helped create the maritime state and its military and economic control at sea.²⁸

Britain expanded its imperial hydrarchy as piratical activity spread across the Atlantic and elsewhere. Endemic European wars in the seventeenth and eighteenth centuries saw many seafarers apply for privateer commissions to engage in prize-taking on behalf of their state against enemy shipping.²⁹ Many of these privateers exceeded their commissions and attacked the ships belonging to belligerent as well as neutral polities off the coast of Africa, the Indian Ocean, and even the South Seas of the Pacific Ocean. The movement of Caribbean pirates and privateers into African and Asian waters in often indiscriminate searches for prizes became known as the 'Pirate Round'. East India Company officers used complaints against the hydrarchy of the Pirate Round to expand their own resources and jurisdiction. London granted the EIC the right to establish courts to suppress interlopers, private traders who challenged the Company's monopoly. The right to prosecute maritime activity that violated its monopoly allowed the EIC to exercise *de facto* jurisdiction over the waters off its territories.

The East India Company established its first court with Admiralty jurisdiction in Calcutta (Kolkata) in 1693, a move that Company servants saw as affirming their sovereignty in India.³⁰ This court, under the auspices of a trading company, gained the right to try pirates in 1700 by the same act that allowed the British to establish Vice-Admiralty Courts anywhere in the empire to deal with 'Persons committing Piracies Robberies and Felonies on the Seas in or neare the East and West Indies'.³¹ The suppression of piracy resulted in an extension of British imperial

²⁸ Peter Linebaugh and Marcus Rediker, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston: Beacon Press, 2000), 145.

²⁹ For a good discussion of the origins and contemporary interpretations of the word 'privateer', see NAM Rodger, 'The Law and Language of Private Naval Warfare', *The Mariner's Mirror* 100, no. 1 (February 2014), 5-16.

³⁰ Stern, *Company-State*, 134-140. Michael Kempe, "'Even in the Remotest Corners of the World": Globalized Piracy and International Law, 1500-1900', *Journal of Global History* 5 (2010), 363-364. Michael Pearson, 'Piracy in Asian Waters: Problems of Definition' in *Pirates, Ports, and Coasts in Asia: Historical and Contemporary Perspectives*, eds. John Kleinan and Manon Ossewiejer (Singapore: National University of Singapore Institute of Southeast Asian Studies, 2010), 17-18. Lauren Benton, 'Legal Spaces of Empire: Piracy and the Origins of Ocean Regionalism', *Comparative Studies in Society and History* 47, no. 4 (October 2005), 718-719.

³¹ 11 Wil. III. c. 7 in *Statutes*, vol. 7, 590.

hydrarchy into both the Atlantic and Indian oceans, maritime spaces under different legal orders as a result of their geopolitical situations. The existence of powerful Indian and other Asian sovereignties east of the Cape of Good Hope meant the British exercise of state power at sea could not be exerted as unilaterally or fully as in the Atlantic.³²

European wars in the mid-seventeenth to early-eighteenth centuries, which expanded seaward through colonies and attacks on shipping, turned islands in the Caribbean into bases for maritime raiders, legal or otherwise. This period is often known as the ‘Golden Age’ of piracy. In the golden age, figures such as Edward Teach (Blackbeard) and Bartholomew Roberts (Black Bart) gained particular notoriety among a cast of characters including the (in)famous pirate women Anne Bonny and Mary Read, as well as Henry Every (also spelled ‘Avery’) and William Kidd, who participated in the Pirate Round and acquired legendary wealth from plundering Mughal ships from India. The adventures of these swashbucklers persist in memory, and the pirates of the Caribbean have become archetypal in popular representation. Though the pirates of the Caribbean were later lionised and their figures continue to capture profits, albeit now through popular appeal rather than maritime plunder, they were a serious concern for the state.³³

The activities of the pirates of the Caribbean peaked after the Peace of Utrecht (1713), which ended the War of Spanish Succession. At the end of the war, Britain acquired the *Assiento*, the right to ship slaves to Spanish America. With thousands of Royal Navy personnel and privateers suddenly unemployed after nearly twenty years of uninterrupted conflicts between European powers, many took to plundering the reinvigorated and lucrative trade across the

³² Lauren Benton, ‘Legal Spaces’, 722.

³³ Sharon Lee Dawdy and Joe Bonni, ‘Towards a General Theory of Piracy’, *Anthropological Quarterly* 85, no. 3 (Summer 2012), 677-684. John C. Appleby, *Women and English Piracy, 1540-1720: Partners and Victims of Crime* (Woodbridge: Boydell Press, 2013), 25-49, 208-217. For a classic, if dated history of the pirates of the Caribbean during the golden age, see Philip Gosse, *The History of Piracy* (New York: Tudor, 1934), 176-214. See also C.R. Pennell ed., *Bandits at Sea: A Pirates Reader* (New York: New York University Press, 2001). Zheng Guangnan, an historian of Chinese piracy, notes somewhat enviously how the pirates of the Caribbean have remained popular in the West while many of their Chinese counterparts have been neglected. Zheng Guangnan, *Zhongguo haidao shi* [A History of Chinese Pirates] (Shanghai: Huadong ligong daxue chubanshe, 1998), 10-11.

Atlantic in goods and slaves. In response, Britain bolstered its authority and power in the Atlantic, effectively bringing an end to the golden age of Atlantic piracy by the late 1720s.³⁴ While Britain could exercise a control over the Atlantic through a unilateral imposition of maritime law, this was not the case in the Mediterranean and east of the Cape of Good Hope. In seas adjacent to polities adhering to their own maritime laws, British imperial hydarchy had to adapt to and compromise with competing understandings of piracy.

By the nineteenth century, maritime Britain had acquired a worldwide experience of dealing with non-European pirates with different systems of law and understandings of maritime plunder. Since the Middle Ages, 'corsairs' from ports in North Africa and the Mediterranean such as Tunis, Tripoli, Algiers, and Salee, known as the 'Barbary states', had attacked the shipping of the Christian states of Europe, including that of the British Isles, and kidnapped Europeans as slaves and for ransom. In England, the predominately male victims of corsair raids were so numerous that complaints became a basis for hundreds, possibly thousands, of women to enter the public arena as petitioners and engage in political activities, which were otherwise closed to them.³⁵ Piracy could prompt atypical political developments. Though many of the corsairs used the pretext of religious warfare to justify their depredations, European naval forces often treated them as pirates rather than belligerents. At the same time, in negotiating the release of prisoners and in attempts to check piratical attacks, European states treated the Barbary 'states', which were under the suzerainty of the Ottoman Empire, as if they were sovereign entities.³⁶ European officials were thus willing to compromise on their understandings of piracy as a universal crime not affiliated with any state in order to check piratical activity. Suppressing piracy was more important than strict adherence to international law. Ultimately, violence,

³⁴ Linebaugh and Rediker, *Many-Headed Hydra*, 170-172. Though the sensational swashbuckling of the pirates of the Caribbean came to an end, piracy nonetheless persisted on a smaller, less exciting scale in the Atlantic. Guy Chet, *The Ocean is a Wilderness: Atlantic Piracy and the Limits of State Authority, 1688-1856* (Amherst: University of Massachusetts Press, 2014), 8-11.

³⁵ Appleby, *Women and English Piracy*, 131-142, 149-169.

³⁶ Harding, "'Hostis Humani Generis'", 29-31. Gonçal López Nadal, 'Corsairing as a Commercial System: The Edges of Legitimate Trade' in *Bandits at Sea*, ed. Pennell, 125-136. Heller-Roazen, *The Enemy of All*, 79-82. Thomson, *Mercenaries*, 44-45. Kempe, "'Even in the Remotest Corners'", 365-366. See also Gosse, *History*, 1-70.

rather than negotiations, would put an end to the activities of the Barbary corsairs. British forces were involved in various attacks on the coast of North Africa in the nineteenth century in the name of suppressing the depredations of the corsairs, who suffered a massive setback with the French occupation of Algiers in 1830.³⁷ Loosening the legal definition of pirates and their relations with sovereigns as well as recourse to violence and colonial expansion would also define British engagement with non-European piracy in waters further from home.

From the time Vasco da Gama rounded the Cape of Good Hope in 1498, European maritime activity in the Indian Ocean and China Seas included privateering and piracy, encouraged by states as an auxiliary to trade. Maritime depredations by European ships catalysed the development of armed commerce in the Indian Ocean.³⁸ Unable to challenge European forces at sea and struggling to exercise control over the hierarchy of pirates and armed traders, Mughal rulers in India turned to Dutch, British, and French naval forces for assistance against pirates and the Portuguese. In doing so, the Mughals conceded the legitimacy of European maritime law in the waters off the Indian subcontinent. This concession, however, also gave European navies the responsibility of suppressing piracy and protecting trade. At the same time, the British and other maritime allies of the Mughals had to recognise and adapt to Mughal sovereignty, which underpinned European maritime rights.³⁹ Mughal sovereignty and British imperial hierarchy could be complementary in the Indian Ocean. The Maratha uprising against Mughal rule, beginning in the late-seventeenth century, threatened this system of co-existence.

To challenge the Mughals and their British and Dutch allies at sea, the Marathas allied with the Portuguese at Goa and hired Kanhoji Angre (a.k.a Angria) to lead their naval forces.

³⁷ Ritchie, 'Government Measures', 14. Kempe, "Even in the Remotest Corners", 366. British naval actions against pirates in northern Africa persisted into the mid-nineteenth century. See Andrew Lambert, 'The Limits of Naval Power: The Merchant Brig, *Three Sisters*, Riff Pirates, and British Battleships' in *Piracy and Maritime Crime: Historical and Modern Case Studies*, ed. Bruce A. Elleman, Andrew Forbes, and David Rosenberg (Newport, RI: Naval War College Press, 2010), 173-190.

³⁸ Anand, *Origin and Development*, 47-53, 112. Robert J. Antony, *Like Froth Floating on the Sea: The World of Pirates and Seafarers in Late Imperial South China* (Berkeley: University of California at Berkeley Institute of East Asian Studies, 2003), 27.

³⁹ Benton, *Search for Sovereignty*, 141-144. Idem, 'Legal Spaces', 713-715. Rhoads Murphey, *The Outsiders: The Western Experience in India and China* (Ann Arbor: University of Michigan Press, 1977), 38.

Claiming official sanction from the Marathas, Kanhoji seized merchant shipping near his territory. As the Marathas were at war with the Mughals, Kanhoji considered the ships of the Mughals' allies, such as the East India Company, as legitimate prizes. Company officials viewed Kanhoji and his successors' prize-taking as a form of piracy. By applying the label of piracy to the Angrian activity, British officers muddled the authority of the Angres, who were Maratha admirals rather than stateless sea rovers. Delegitimising Angrian authority helped justify British violence against the Angres' forces and territories.⁴⁰ The British experience with the Angres in India would inform imperial activity in the easternmost of the EIC's territories in the Malay Archipelago.

When English traders first arrived in Southeast Asia in the late sixteenth century, in addition to having to contend with indigenous polities and sovereigns, they had to deal with differing European ideas of control in the region. The EIC attempted to establish a presence there in the midst of a conflict between the Portuguese, who claimed a monopoly over maritime trade in the region, and the Dutch, who considered Portuguese overseas possessions as territories of Spain after the dynastic union of the Iberian states in 1580. The revolt against Spain in 1567 justified a Dutch challenge to Portuguese influence in the Malay Archipelago. In this context, Admiral Jacob van Heemskerck captured the Portuguese ship *Santa Catarina* in 1603 and took it to Amsterdam as a prize. Prize money was distributed among shareholders of the Dutch East India Company (Vereenigde Oostindische Compagnie, VOC). The VOC hired Hugo Grotius, one of the fathers of international law, as a legal counsel to help justify these actions.⁴¹ Grotius challenged the Portuguese claim to sovereignty over the sea lanes and maritime trade of Southeast Asia established in the Treaties of Tordesillas (1494) and Saragosa (1529). Grotius advocated instead for *mare liberum* (free seas), asserting that natural law gave all states the right

⁴⁰ Risso, 'Cross-Cultural Perceptions', 302-309. Simon Layton, 'The "Moghul's Admiral": Angrian "Piracy" and the Rise of British Bombay', *Journal of Early Modern History* 17 (2013), 82, 92-93. Anand, *Origin and Development*, 113-114.

⁴¹ Alfred Rubin, *The International Personality of the Malay Peninsula: A Study of the International Law of Imperialism* (Kuala Lumpur: Penerbit University Malaya Press, 1974), 29-36. Anand, *Origin and Development*, 72-79.

to free navigation of the seas. All states also had a responsibility to uphold this right against any threat. Grotius thus condemned Portuguese attempts to exclude other states from access to India and Southeast Asia as a form of piracy. By impinging on freedom of the seas, acts sponsored by sovereign entities, such as the Portuguese *cartaz* system, could be considered piratical according to Grotius.⁴² He established the precedent that if a state could prove that the maritime activities of another sovereign entity violated *mare liberum*, that state could suppress such activity as piracy.

Though Grotius' accusations were against Portugal, colonial powers in the Malay Archipelago would also direct such accusations against indigenous polities to justify recourse to violence.⁴³ The polities of the many islands in the Malay Archipelago relied on trade, and sovereigns in the region considered using naval forces to attack such trade as a legitimate form of statecraft. Though such activities were more akin to privateering than piracy, European states adhering to the belief that only sovereigns of 'civilised' states could legitimately commission privateers often designated prize-taking activities sponsored by indigenous polities as piracy in order to delegitimise Southeast Asian sovereignties.⁴⁴ By the eighteenth century, the maritime raiding of the Angres and local rulers in the Malay Archipelago led British imperial agents to shift the agency behind piracy from hydrarchy to sovereigns.⁴⁵ The paradoxical association of polities with piracy, a crime by definition beyond the confines of a single state, enabled Company officers in Asian waters to become kingmakers, selecting which local rulers to recognise as sovereigns and which to delegitimise and attack as pirates. This was an important

⁴² The Portuguese sold licences, or *cartazes*, to ships trading in the Indian Ocean. Vessels found without a *cartaz* were liable to seizure by Portuguese ships. Stern, *Company-State*, 134-136. Anand, *Origin and Development*, 57.

⁴³ Benton, *Search for Sovereignty*, 131-137. Jennifer L. Gaynor, 'Piracy in the Offing: The Law of Lands and the Limits of Sovereignty at Sea', *Anthropological Quarterly* 85, no. 3 (Summer 2012), 833-840. Rubin, *The Law of Piracy*, 26-30. C.H. Alexandrowicz, *An Introduction to the History of the Law of Nations in the East Indies (16th, 17th, and 18th Centuries)* (Oxford: Clarendon Press, 1967), 42-71. Rubin, *International Personality*, 100.

⁴⁴ Reid, 'Violence at Sea', 18-20. Ghislaine Loyré, 'Living and Working Conditions in Philippine Pirate Communities, 1750-1850' in *Pirates and Privateers*, ed. Starkey, et al., 72-75, 85. Gaynor, 'Piracy in the Offing', 840. Simon Layton, 'Discourses of Piracy in an Age of Revolution', *Itinerario* 35, no. 2 (2011), 88-89.

⁴⁵ Simon Layton, 'Hydras and Leviathans in the Indian Ocean World', *International Journal of Maritime History* 25, no. 2 (December 2013), 225.

development for the EIC in Southeast Asia, especially as Westminster sought to curb the Company's expansionist activities. The India Act of 1784 forbade the EIC from declaring war without approval from the British government in London. In the Malay Archipelago, Company servants circumvented this restriction by applying the label of piracy to the maritime activities of Malay rulers to justify armed intervention.⁴⁶ Sea raiding in Southeast Asia, legitimate or otherwise, violated Grotius' concept of *mare liberum* and threatened trade, which became an important impetus for British imperial expansion.⁴⁷ In the same way that the French dealt with the Barbary corsairs by colonising Algeria, the EIC engaged in an 'imperialism of free seas' using violence and territorial conquest as a means of dealing with piracy in Southeast Asia.⁴⁸

While the imperialism of free seas helped establish a British presence in Southeast Asia, suppressing piracy was not the Company's only motivation for colonial activity in the region. As a trading company, the EIC's principal motivations were profits and the quest for markets. Company activities in India and Southeast Asia were part of a broader 'Cathaian project', which had motivated British designs in Asia since the EIC's founding in 1600. India and the Malay Archipelago were waystations, sources of goods and capital with which to access the largest market in the world: China.⁴⁹ Company ships first reached China in 1637 during the transition between the Ming (1368-1644) and Qing dynasties, a conflict in which pirates played an important role. Piracy and upheaval dissuaded the EIC from making any earnest efforts at trade with China until 1717, after which the Company's trade with China flourished, particularly as Britain's voracious appetite for tea grew exponentially.⁵⁰ To protect the valuable cargoes of its

⁴⁶ Rubin, *Law of Piracy*, 222.

⁴⁷ On trade and empire, see the classic work John Gallagher and Ronald Robinson, 'The Imperialism of Free Trade', *The Economic History Review* 6, no. 1 (1953), 1-15.

⁴⁸ The phrase is Simon Layton's. See Layton, 'Hydras and Leviathans', 224. See also idem, "'Mogul's Admiral'", 80, 93.

⁴⁹ Vincent Harlow, *The Founding of the Second British Empire, 1763-1793*, vol. 1 (London: Longmans, Green and Co., 1952), 13-16. Gaynor, 'Piracy in the Offing', 842. Murphey, *Outsiders*, 80-82. Anand, *Origin and Development*, 124.

⁵⁰ Stephen Platt, *Imperial Twilight: The Opium War and the End of China's Last Golden Age* (London: Atlantic Books, 2018), 10-12. To pay for Chinese tea, the British began exporting opium from India against Qing prohibitions, resulting in the first Opium War. For the classic account see Michael Greenberg, *British Trade and the Opening of China, 1800-1842* (Cambridge: Cambridge University Press, 1951).

East Indiamen, the Company turned to the Royal Navy. Though piracy was endemic in the waters around Canton, the only port open to European trade, Chinese pirates rarely threatened foreign ships. During Britain's wars against Napoleon and the United States in the early nineteenth century, the EIC appealed to the Royal Navy for protection not against pirates but enemy warships.⁵¹ It was in this context that HMS *Providence* anchored at Whampoa.

By 1800 the Royal Navy was the most powerful naval force in the world as would be proven just five years later at the Battle of Trafalgar. It had a long and distinguished history of suppressing different types of piracy in various contexts. HMS *Providence* and other Royal Navy ships in the Canton Delta carried this accumulated experience and the laws underpinning it to China; naval officers believed themselves justified in suppressing piracy off the China coast as they had in the Atlantic and Indian oceans. This belief helped motivate the actions of the officer of the *Providence* who fired at a Chinese boat in February 1800. Though it is uncertain whether the crew of the boat were pirates, the piratical activities of tens of thousands of other Chinese seafarers were less ambiguous and had created a situation of crisis in the waters off South China by this point. Like the buccaneers of America and the Barbary corsairs, these pirates had the dubious distinction of acquiring a unique designation: 'ladrones', from the Portuguese term for 'thieves'.⁵² Though the Royal Navy had dealt with pirates from the

⁵¹ Gerald S. Graham, *The China Station: War and Diplomacy, 1830-1860* (Oxford, Clarendon Press, 1978), 12-13. Royal Navy ships appeared in China before the nineteenth century. In 1743, Commodore George Anson in HMS *Centurion* visited Macau in pursuit of the Manila galleon during the War of Jenkin's Ear. After capturing the treasure vessel, Anson brought it to Canton. Andrew Lambert, *Admirals: The Naval Commanders Who Made Britain Great* (London: Faber and Faber, 2008), 128-129. In 1793, HMS *Lion*, the ship which brought the Macartney embassy to Beijing, chased a French ship to Macau during the Revolutionary Wars. Hosea Ballou Morse, *The Chronicles of the East India Company Trading to China, 1635-1834*, vol. 2 (Oxford: Oxford University Press, 1926), 212.

⁵² For example, John Turner, chief mate of the *Tay*, recounted the experiences of his captivity by Chinese pirates in 1806 in a book entitled *The Sufferings of John Turner, Chief Mate of the Country Ship, Tay, Bound for China, under the Command of William Greig, Including The Seizure of Him and Six Lascars in the Cutter, and Their Captivity and Danger Amongst the Ladrones* (London: Thomas Tegg, 1815). When Richard Glasspoole, fourth officer of the *Marquis of Ely* was captured by Chinese pirates in 1809, he wrote that he and others 'were made Prisoners by a Large Ladrone Boat'. Glasspool to Captain Kay, 21 September 1809, quoted in Entry for 28 September 1809, IOR/G/12/167, 231. Glasspoole published a record of his experience in Richard Glasspoole, 'A Brief Narrative of My Captivity & Treatment Amongst the Ladrones' in the appendix of Charles Friedrich Neumann, *History of the Pirates Who Infested the China Sea, from 1807 to 1810* (London: Oriental Translation Fund, 1831), 97-125. On the buccaneers, see C.R. Pennell, 'Brought to Book: Reading about Pirates', in *Bandits*, ed. Pennell, 4, and Gosse, *History*, 141-174.

Caribbean to the Straits of Malacca, its encounter with the *ladrones* was different. The scale of the piratical activities of the *ladrones* was unprecedented. While the number of pirates active in the Atlantic during the ‘golden age’ never exceeded 5,500, more than 70,000 *ladrones* were thought to be operating in South China in 1809.⁵³ Furthermore, the *ladrones* were active off the China coast, where Qing authorities exercised an imperial hierarchy built on laws and practices that differed from those of British diplomats and naval officers. On the China coast, the Royal Navy and other British representatives would have to reckon with Qing officials and laws in dealing with the problem of Chinese piracy.

Controlling the Inner Seas

Piracy was a problem for the Manchu leaders of the Qing from the time they began establishing their rule in China. The emperors of the Ming Dynasty attempted to ban private maritime trade by imposing strict regulations. Rather than suppress private trade, these bans encouraged smuggling and piracy and produced a class of merchant-pirates who engaged in commerce as well as plunder. The most successful of these merchant-pirates were Zheng Zhilong and his son, Zheng Chenggong, known in the West as Koxinga. As Ming rule weakened, Chinese officials turned to the Zhengs for support against the Qing. Zheng Zhilong accepted a pardon and received a naval commission from the Ming officials in 1628, which turned him and his followers into privateers of sorts of the Ming emperor.⁵⁴ In 1646, Zheng Zhilong surrendered to Qing authorities who executed him in 1661. His son continued to resist Qing rule, attacking and plundering Qing ships and coastal settlements under the banner of Ming loyalism. For his loyalty to the deposed Ming, Zheng Chenggong received an imperial surname and the title of *guoxingye*,

⁵³ Robert J. Antony, ‘Introduction’ in *Pirates in the Age of Sail*, ed. Robert J. Antony (New York: W.W. Norton, 2007), 34. The number of *ladrones* dwarfed even the Royal Navy, whose total personnel numbered 41,389 in 1841. Rebecca Berens Matzke, *Deterrence through Strength: British Naval Power and Foreign Policy Under Pax Britannica* (Lincoln: University of Nebraska Press, 2011), 47.

⁵⁴ Zheng, *Zhongguo*, 238-239 and 250. Yangwen Zheng, *China on the Sea: How the Maritime World Shaped Modern China* (Leiden: Brill, 2012), 54. Paola Calanca, ‘Piracy and Coastal Security in Southeastern China, 1600-1780’ in *Elusive Pirates*, ed. Antony, 86-87.

from whence his moniker 'Koxinga' is derived.⁵⁵ As Koxinga had official recognition from the Ming, Qing sources referred to him as a maritime rebel (*haikou* or *haini*) beyond the pale of imperial order. Nonetheless, Qing officials considered such maritime rebels within their jurisdiction and, like any other thief or bandit, punishable by execution or exile.⁵⁶ Unlike British jurists, Qing authorities did not distinguish between pirates acting on private motives and those committing depredations with the sanction of a sovereign however dubious. Furthermore, they considered all maritime crimes in China as falling under their jurisdiction.

Koxinga's depredations constituted a maritime crisis for the Qing state. To deal with this threat, Qing officials reinforced the naval forces captured from the Ming and implemented a maritime ban (*haijin*) in 1656 in the hope of cutting off support and sustenance to Koxinga's forces. Restricting maritime trade became an important measure in the Qing repertoire for dealing with waterborne threats. In the case of Koxinga, however, it proved ineffective. In desperation, the emperor resorted to the even more drastic measure of issuing an edict ordering the coastal population of the provinces of Guangdong, Fujian, Jiangnan, and Zhejiang, some of China's wealthiest and most populous, to withdraw thirty *li* (about ten miles) inland. This exodus from the coast was an unprecedented move in China's maritime history and reveals the extent to which Qing rulers were willing to forego maritime activity and its profits in the interest of national security. The removal of the population from the coast and Qing aggression drove Koxinga from the mainland of China to the island of Formosa (Taiwan), which he conquered from the Dutch in 1662.⁵⁷ From Taiwan, Koxinga continued to menace the Qing Empire.

⁵⁵ Zheng, *Zhongguo*, 267, 283. Matsuura Akira, *Zhongguo de haizei* [The Pirates of China], trans. Xie Yue, (Beijing: Commercial Press, 2011), 96-98.

⁵⁶ Antony, *Like Froth*, 28-33. Idem, *Unruly People*, 106. Idem, 'Introduction', 37. Reid, 'Violence at Sea', 17. British authorities may have treated a figure like Koxinga in a similar manner. When the deposed James II commissioned privateers against William and Mary during the first Jacobite rising (1689-1692), the Privy Council decided that the state had the right to determine the legitimacy of the sovereign under whose commission a privateer acted. By rejecting the authority of a privateer's sovereign, the state could attack the ship as a pirate. British naval officers used similar logic to justify attacks against privateers commissioned by the United States of America during the American Revolution. Rubin, *Law of Piracy*, 73, 202.

⁵⁷ Zheng, *China on the Sea*, 62-64. Matsuura, *Zhongguo*, 100. Tonio Andrade, 'Koxinga's Conquest of Taiwan in Global History: Reflections on the Occasion of the 350th Anniversary', *Late Imperial China* 33, no. 1 (June 2012), 122-140.

Eventually, like the Europeans against the Barbary corsairs, Qing officials decided violence and conquest was the only means of dealing with the Taiwan pirates. The Qing commander Shi Lang assembled a naval force of 300 ships and 20,000 men with which he conquered Taiwan in 1683. The expedition marked an apex in the development of Qing naval strategy and was singular as an instance in which the Qing state mobilised the people and resources of maritime China in the imperial interest.⁵⁸ Though not an exercise in the imperialism of 'free' seas, as Qing authorities believed they had sole control over the waters off their coast, Qing officers could nonetheless use the suppression of piracy to justify imperial expansion.

The conquest of Taiwan allowed Qing administrators to control the entire coast of China and project an imperial hydrarchy over seafarers in the seas adjacent. Through a variety of state measures, Qing authorities exerted control over the 'inner seas' (*neihai*) immediately off the coast of China. Though often ill-defined, the inner seas were treated as an extension of Qing territory, while Qing officials saw the outer seas (*waihai*) as beyond their control. The Qing inner seas were further divided into sectors roughly corresponding with the borders of provincial jurisdiction on land. While Qing maritime authority was limited to the inner seas, Chinese hydrarchy largely disregarded the borders of this space.⁵⁹ Within the inner seas, Qing rulers relaxed maritime restrictions after the conquest of Taiwan. Emperor Kangxi lifted the bans on maritime activity in 1684 and sought to extract wealth from this relaxation by establishing maritime customs stations in the provinces of Guangdong, Fujian, Jiangsu, and Zhejiang. At the Guangdong customs station at Canton, Qing authorities relegated the collection of customs

⁵⁸ Bruce A. Elleman, 'The Neglect and Nadir of Chinese Maritime Policy under the Qing' in *China Goes to Sea: Maritime Transformation in Comparative Historical Perspective*, ed. Andrew S. Erickson, Lyle J. Goldstein, and Carnes Lord (Annapolis, MD: Naval Institute Press, 2009), 291. Bruce Swanson, *Eighth Voyage of the Dragon: A History of China's Quest for Seapower* (Annapolis, MD: Naval Institute Press, 1982), 70. Zheng, *China on the Sea*, 61.

⁵⁹ Ronald C. Po, 'Mapping Maritime Power and Control: A Study of the Late Eighteenth Century *Qisheng Yanhai Tu* (A Coastal Map of the Seven Provinces)', *Late Imperial China* 7, no. 2 (December 2016), 93-94 and 112-117. Dian Murray, 'Guangdong de shuishang shijie: ta de shengtai he jingji [The Cantonese Water World: Its Ecology and Economy]', trans. Zhang Bincun in *Zhongguo haiyang fazhan shi lunwenji* [Collected Essays on the History of China's Maritime Development], vol. 7, no. 1, ed. Tang Xiyong (Taipei: Academia Sinica, 1999), 145-146. For more on the Qing navy, see Swanson, *Eighth Voyage*, 54-72.

duties from European traders to a collective of merchants known as the Cohong (gonghang) in 1720. The Cohong mediated between foreign traders and the Qing government and acted as agents of Qing maritime control helping to regulate mercantile activity in China's inner seas.⁶⁰

In addition to exerting control over maritime trade through customs stations, Qing administrators also sought to impose control over Chinese seafarers not engaged in commerce. In a testament to how Qing officials attempted to extend seaward means of control developed on land, they adopted the *baojia* system of registration and mutual surveillance and applied it to Chinese maritime society. In the *baojia* system, every ten households were grouped into a tithing (*jia*), under a tithing head (*jiazhong*). Every ten tithings were grouped together into a watch (*bao*) under the responsibility of a watch leader (*baozhang*). Tithing heads and watch leaders played an important role in supporting local Qing administration by moralising to their wards and reporting suspicious activity.⁶¹ As a substantial portion of the population living on the coast and rivers of South China were boat-dwelling Dan (or Danjia, known in English sources as 'Tankas') and seafarers, Qing officials on the coast attempted to impose a system similar to *baojia* over this South China hydrarchy. In place of the household, Qing authorities used the boat as the basic unit of registration and control. Groups of ten vessels were assigned to an anchorage group, or *aojia*, and every ten anchorage groups were put under the responsibility of a port chief (*aozhang*). Qing policy required that the Dan be officially registered in 1729. In 1765, merchant and fishing vessels were also registered into the *aojia* system.⁶² Through maritime defences and naval patrols as well as customs controls and anchorage groups, Qing officials imposed an imperial hydrarchy over China's rivers and inner seas.

For a century after the defeat of the remnants of Koxinga's pirate-rebels, the Qing government exercised a relatively effective imperial hydrarchy over the inner seas of China. Though piracy remained endemic, it only occurred on a small scale during this time. The combination of riverine and coastal defences, naval patrols, customs controls, and a system of

⁶⁰ Zheng, *China on the Sea*, 65-66. Carroll, 'Canton System', 53. Po, 'Mapping Maritime Power', 116.

⁶¹ Antony, *Unruly People*, 70-73.

⁶² Ibid, 77. Calanca, 'Piracy and Coastal Security', 95. For a general description of Chinese hydrarchy in Guangdong, see Murray, 'Guangdong', 145-170.

mutual surveillance succeeded in preventing Chinese hydrarchy from organising on any significant scale, and the inner seas remained largely peaceful for much of the eighteenth century.⁶³ Qing officials were less successful, however, at controlling maritime developments beyond the inner seas. The outbreak of the Tayson rebellion in late eighteenth-century Vietnam provided a catalyst for uniting and organizing Chinese seafarers into a professional maritime force. Tayson leaders hired Chinese pirates as privateers to plunder the ships of Le rulers of Vietnam as well as Chinese shipping. As sailors in the Tayson navy, many Chinese pirates developed leadership and fighting skills in addition to receiving materiel from their patrons. The collapse of Tayson rule in 1802 saw many of the privateers return to China as pirates, precipitating the ladrone crisis.⁶⁴ In the aftermath of the Tayson rebellion, Zheng Yi, his wife (whose name is often simply given as Zheng Yi *sao*, 'the wife of Zheng Yi'), and their adopted son, Zhang Bao, helped organise the hydrarchy of South China into a massive pirate confederation of 2,000 ships and over 70,000 pirates divided into six fleets. The leaders of these fleets acted as *de facto* sovereigns on the South China coast, raising a substantial military force while collecting blackmail on ships and even towns amounting to a form of tax. The pirates created an alternate order to Qing rule in the Canton Delta.⁶⁵ Unlike Koxinga's pirates, the ladres did not seem to act on behalf of an alternative sovereign and never sought to overthrow the Qing. As possibly the largest assemblage of pirates in history, they were nonetheless a dire threat to the Qing state.

Qing officials initially sought to deal with the problem of Tayson privateers the same way they dealt with Ming privateers under the Zhengs. In 1788, Guangdong and Guangxi

⁶³ Po, 'Mapping Maritime Power', 125. Calanca, 'Piracy and Coastal Security', 91-94.

⁶⁴ For a general account of the Tayson privateers and the ladrone crisis see Dian Murray, *Pirates of the South China Coast, 1790-1810* (Stanford: Stanford University Press, 1987). On the Tayson privateers, see idem, 'Piracy and China's Maritime Transition, 1750-1850' in *Maritime China in Transition, 1750-1850*, ed. Gungwu Wang and Chin-Keong Ng (Wiesbaden: Harrassowitz Verlag, 2004), 48-52.

Wensheng Wang, *White Lotus Rebels and South China Pirates: Crisis and Reform in the Qing Empire* (Cambridge, MA: Harvard University Press, 2014), 85-87. Antony, *Like Froth*, 38-43.

⁶⁵ Joseph Mackay, 'Pirate Nations: Maritime Pirates as Escape Societies in Late Imperial China', *Social Science History* 37, no. 4 (Winter 2013), 564-565. Robert J. Antony, 'Sea Bandits of the Canton Delta, 1780-1839', *International Journal of Maritime History* 17, no. 2 (December 2005), 27. Wang, *White Lotus Rebels*, 85-88 and 217-218. Murray, *Pirates*, 84-89.

Governor-General Sun Shiyi led a Qing force into Vietnam to bolster the Le emperor, a tributary vassal of the Qing, against the Tayson rebels. Unlike the conquest of Taiwan, however, Qing intervention in Vietnam resulted in a disastrous defeat, and the Qing emperor eventually recognised the Tayson ruler as a vassal and legitimate ruler of Vietnam. Qing commitment to the Tayson was tenuous, however. After the collapse of the Tayson state in 1802 and Emperor Gia Long's establishment of the Nguyen Dynasty (1802-1945), Qing Emperor Jiaqing was quick to acknowledge the new Vietnamese ruler's legitimacy.⁶⁶ Continued maritime raids by Tayson privateers may have contributed to Qing ambivalence.

Tayson privateers acted on behalf of rebels against a tributary relation of the Qing Empire. When the Qing emperor recognised Tayson legitimacy, his subordinates nonetheless considered these privateers 'boat bandits' (*tingdao* or *tingfei*) despite an awareness that they acted with Tayson complicity and commissions.⁶⁷ After the disastrous intervention of 1788, Qing coastal authorities decided to attempt to adopt a policy of 'sea war' (*haizhan*) against the boat bandits and deal with the problem at sea rather than by attempting to intervene on land. In 1797, Emperor Qianlong allowed Qing naval forces to enter Vietnamese waters to suppress the boat bandits, declaring that 'We came here to fight the Chinese pirates who are seeking refuge in your territory'.⁶⁸ Qing naval forces proved unequal to those of the Tayson privateers. Qianlong's successor, Jiaqing, forbade Qing naval forces from pursuing pirates into Vietnamese waters, helping establish a more definite Sino-Vietnamese maritime boundary.⁶⁹ Qing authorities also

⁶⁶ Wang, *White Lotus Rebels*, 211-222. Truong Buu Lam, 'Intervention Versus Tribute in Sino-Vietnamese Relations, 1788-1790' in *The Chinese World Order: Traditional China's Foreign Relations*, ed. John King Fairbank (Cambridge, MA: Harvard University Press, 1968), 165-179. For various perspectives on Qing foreign relations and the 'tributary system', see He Xinhua, *Zuihou de Tianchao: Qingdai chaogong zhidu yu yanjiu* [The Last Celestial Empire: A Study on the Tributary System in the Qing Dynasty] (Beijing: Renmin chubanshe, 2012); Rune Svarverud, *International Law as World Order in Late Imperial China: Translation, Reception and Discourse, 1847-1911* (Leiden: Brill, 2007), 8-12; John King Fairbank, ed. *The Chinese World Order*; and David C. Kang, 'Hierarchy and Legitimacy in International Systems: The Tribute System in Early Modern East Asia', *Security Studies* 19 (2010), 591-622.

⁶⁷ Zheng, *Zhongguo*, 298-301. Wang, *White Lotus Rebels*, 224-225.

⁶⁸ Imperial Edict of 3 August 1796, quoted in Wang, *White Lotus Rebels*, 224.

⁶⁹ Wang, *White Lotus Rebels*, 225-226. Antony, 'Pacification of the Seas', 17. See also Dian Murray, 'Conflict and Coexistence: The Sino-Vietnamese Maritime Boundaries in Historical Perspective', Occasional Paper No. 13, Center of Southeast Asian Studies, University of Wisconsin (1988), 1-16.

made it easier for courts to try and punish pirates captured in the inner seas. Between 1795 and 1801, Qing legal officers added a series of sub-statutes to the Qing Code distinguishing between grades of pirates and assigning them different punishments. They also facilitated the execution of pirates. Whereas under normal circumstances any execution required approval from the emperor, Beijing approved of ‘execution by royal mandate (*wangmingxianxingzhengfa*)’ to deal with the pirate crisis. Under this extraordinary measure, high provincial officials could execute criminals by merely displaying a royal mandate banner, which gave them the authority to carry out expedited executions without giving offenders the normal opportunities to appeal to review processes in the Qing Code.⁷⁰ When the measures of sea war and expedited executions proved ineffective for dealing with the boat bandits, authorities at Canton resorted to a policy of pardon and pacification (*zhaofu*), in which pirates were pardoned, offered military ranks, and employed to suppress other pirates, in 1799.⁷¹

As the Tayson privateers reorganized into a massive pirate confederation, the combination of policies applied by Qing officials could not suppress or appease this large-scale organisation of Chinese hydrarchy. In 1804, Jiaqing appointed Nayancheng as governor-general of Guangdong and Guangxi to deal with the ladrones. In addition to constructing more war junks and costal fortifications, he also galvanised local initiatives to recruit braves (*yong*) and militia (*tuanlian*) as a paramilitary force to support Qing official efforts against the ladrones. In doing so, he resurrected a practice dating back to the Ming Dynasty. Nayancheng’s measures had limited success, however, and he was dismissed in 1805.⁷² The next governor-general, Wu Xiongguang, also attempted to defeat the pirates at sea but to no avail. Qing naval strategy and forces were simply no match for those of the ladrones.⁷³ Wu’s successor, Bailing, put more effort into supporting local efforts for self-defence. The number of militia units in Guangdong quadrupled under Bailing. He also established a system of convoy and implemented a maritime

⁷⁰ Antony, *Unruly People*, 247

⁷¹ Murray, *Pirates*, 40-48.

⁷² Ibid, 106-118. Antony, *Unruly People*, 91-92.

⁷³ Antony, ‘Pacification of the Seas’, 24. Idem, ‘State, Community, and Pirate Suppression in Guangdong Province, 1809-1810’, *Late Imperial China* 27, no. 1 (June 2006), 7-10.

ban to cut off support to pirates. These measures, coupled with a series of natural disasters between 1808 and 1810 in the Canton Delta, which exacerbated animosity between the ladrones and the local inhabitants, helped Bailing's naval offensives and offers of pardon achieve success. Zhang Bao and Zheng Yi Sao surrendered along with 17,318 men, women, and children as well as 226 ships, 1315 cannon, and 2798 other weapons in April 1810. A combination of Qing policy and other developments ended the crisis brought about by the ladrones.⁷⁴

Most of the policies adopted by the Qing against the ladrones, such as aggression on land and at sea, *zhaofu*, maritime bans, and raising local militia, had been applied in the past against Koxinga and other pirates. The governors-general in South China had not adapted to the new developments of the nineteenth century.⁷⁵ One of these developments was the rising power and reach of the Royal Navy and the British Empire whose interests those ships represented. HMS *Providence* was a manifestation of British power in China. That the Canton authorities were willing to allow a British warship to detain pirates on their behalf suggests that in times of crisis, Qing officials could countenance cooperation with foreign navies in suppressing piracy. The nineteenth century, particularly after the British occupation of Hong Kong in 1841, would indeed see the development of an Anglo-Qing collaborative imperial hydrarchy in Chinese waters.

Anglo-Qing Collaborative Imperial Hydrarchy in the Nineteenth Century

Despite disagreements during the *Providence* incident, some Qing officials sought British assistance against pirates as the ladrones crisis worsened. The Opium War and subsequent disruptions exacerbated the problem of piracy in South China. As this thesis shows, the colonisation of Hong Kong allowed the British officials to exert sovereignty, including the imposition of English, international, and maritime law, on an island off the coast of China and

⁷⁴ Antony, 'State, Community, and Pirate Suppression', 1, 7, 10-21. Idem, 'Pacification of the Seas', 25-26.

⁷⁵ See Murray, 'Piracy and China's Maritime Transition', 43-60.

project it over surrounding waters. By 1847, Hong Kong courts and the Royal Navy enabled colonial authorities to exercise a degree of authority in Chinese waters, disrupting Qing maritime control around Hong Kong. Though the British administrators displaced Qing authority in Hong Kong waters, even the Royal Navy struggled to bring order and suppress Chinese piracy. Furthermore, the criminal justice system of Hong Kong struggled to process the colony's criminal population let alone that of the island's surrounding hydrarchy. Colonial officers found a solution in cooperating with and extraditing pirates to Qing counterparts in Kowloon across Victoria Harbour from the island of Hong Kong. Seeing the efficacy of the Royal Navy in dealing with pirates, Qing officials began collaborating with British forces in suppressing piracy. This cooperation laid the foundations for a collaborative imperial hydrarchy between Britain and China in the Canton Delta.

The cooperation between Hong Kong and Kowloon proved so effective that it spread elsewhere, extending the reach of British and Qing maritime authority along the China coast and even to waters beyond British or Qing jurisdiction. This collaboration for controlling Chinese hydrarchy, however, was haphazard and emerged out of necessity and convenience. Before 1858, British and Qing officials compromised in their understanding of piracy and the jurisdiction they could exercise over it, leading to misunderstandings. This misunderstanding would be a source of tension and, as this thesis argues, ultimately became a cause of the *Arrow* War (1856-1860). In addition to ceding Kowloon to Britain as an exercise of the imperialism of free seas, the 'unequal' treaties that ended the war helped codify aspects of Anglo-Qing collaborative imperial hydrarchy, giving it a firmer basis in treaty law. This law represented a compromise between British and Qing understandings of piracy.

The treaties mandated cooperation and coordination between Britain and China against pirates. Out of these efforts, new strategies and policies for exercising collaborative maritime control emerged in the 1860s. This thesis shows that these developments produced a closer cooperation between Britain and China and required officials from both sides to engage and compromise with each other's understandings and limits of imperial hydrarchy. Policies and laws adopted in Hong Kong had effects on those of the Qing and vice versa. Ultimately, the

various measures adopted by Britain and China to exert control over the seas of the coast of South China largely succeeded in suppressing piracy, a noteworthy example of successful cooperation between Britain and China. By the end of the nineteenth century, new concerns and priorities eclipsed piracy as focus of Anglo-Qing cooperation. In interacting against Chinese pirates, the British and Qing empires developed a collaborative imperial hierarchy in which the two sides compromised and cooperated to devise successful designs against a common foe.

Chapter 1

Island of Sovereignty: British Hong Kong in Chinese Seas

Trade was the principal British interest in China. Before the Opium War, the Royal Navy initially went to China to protect British shipping from enemy warships, bringing the politics of the Napoleonic Wars to the coast of China. Though Qing officials viewed the Royal Navy with suspicion, especially after its two attempts to occupy Macau (Aomen, also spelled Macao), the desperate situation caused by the ladrones drove local and even provincial authorities in Guangdong to seek the Royal Navy's assistance against piracy. Britain provided ships and arms in support of Qing efforts against the ladrones. After the crisis receded, however, Qing prohibitions on opium and the system of regulating trade at Canton proved a larger impediment to British trade than pirates, obstacles British agents attempted to circumvent by smuggling and, ultimately, war. During the first Opium War (1839-1842), Britain occupied Hong Kong, establishing an imperial outpost off the coast of the Qing Empire. This chapter examines the implications the colonisation of Hong Kong had for British imperial hierarchy off the China coast. British colonial governors introduced English and international law to their new colony and developed the means of projecting this law into Chinese waters from that island.

The colonisation of Hong Kong marked a sea-change in British power in China. This colonisation, undertaken by the British state, which took over control of Sino-British relations from the East India Company in 1834, contributed significantly to the uniqueness of Hong Kong in the British Empire. Drawing from their experience elsewhere in Asia, British officials in Hong Kong initially sought to compromise with existing Qing laws when establishing the new colony. The desire of authorities in London and Hong Kong to insulate their subjects from Qing jurisdiction and law, as well as a need to establish control, led to an abandonment of these compromises. Colonial administrators precluded Qing attempts at exerting authority and control over the Chinese at Hong Kong, turning the colony into a literal island of British sovereignty. Having accomplished this through the wholesale imposition of English law,

enforced by a governor with unprecedented authority, colonial agents sought to extend their control seaward. In addition to fending off impingement by Qing officials who had different understandings of the cession of Hong Kong and the implications this had for its surrounding waters, Hong Kong officials also had to contend with the unruly seaborne society in those waters. Through the powers of the governor of Hong Kong, the marine magistracy, the Supreme and Vice-Admiralty Court, and the Royal Navy, British authority was established over an island and its surrounding waters in the inner seas of the Qing Empire.

Britain and Piracy in China on the Eve of the Opium War

In the decades before the Opium War, Chinese hydrarchy in Guangdong expanded and became increasingly unruly. The inhabitants of what Dian Murray calls the ‘Cantonese water world’, which stretched from Swatow (Shantou) to the coast of Vietnam, had a precarious existence and faced discrimination and economic deprivation. The difficulties of living in the Cantonese water world were compounded by the ineffectiveness and land-bound biases of Qing rule and culminated in the ladrone crisis, which weakened Qing control of the southern coast and left it open to foreign invasion.¹ Before bringing an invasion force during the Opium War, the Royal Navy and armed ships of the East India Company occasionally took actions against suspected Chinese pirates, as when the officer of HMS *Providence* fired on a Chinese boat in 1800. Two years after the *Providence* affair, Chinese merchants in Canton requested that the EIC Select Committee in Canton keep East Indiamen in neighbouring waters as protection against pirates.² As the ladrones threatened trade, the *raison d’être* for the British presence in China, the Royal Navy took increasingly drastic measures against piracy. The threat from the ladrones drove the naval officers to defy Qing restrictions and send warships further up the Pearl River Delta to

¹ See Dian Murray, ‘Guangdong de shui shang shijie: ta de shengtai he jingji [The Cantonese Water World: Its Ecology and Economy]’, trans. Zhang Bincun, in *Zhongguo haiyang fazhan shi lunwen ji* [Essays on the History of Chinese Maritime Development], vol. 7, no. 1, ed. Tang Xiyong (Taipei: Academia Sinica, 1999), 145-170.

² Hosea Ballou Morse, *The Chronicles of the East India Company Trading to China, 1635-1834*, vol. 2 (Oxford: Clarendon Press, 1926), 396. East Indiamen were large, well-armed trading vessels. A.D. Blue, ‘Piracy on the China Coast’, *Journal of the Royal Asiatic Society Hong Kong Branch* 5 (1975), 71.

protect British shipping. In October 1804, Company servants at Canton offered to deploy armed ships to suppress piracy on behalf of the provincial authorities. Qing officials initially rejected the offer, fearing that acceptance of British support would reveal Chinese impotence against the pirate confederation.³

By 1805, however, the situation had become so desperate that Emperor Jiaqing permitted British warships to anchor at the Portuguese settlement of Macau for the sole purpose of suppressing piracy. This concession is particularly surprising given the disturbance caused by the British attempt to occupy Macau in 1802. French belligerence in Europe provided a pretext for British intervention in Portuguese overseas possessions under the guise of protecting allied territory from French forces. Portuguese officials in Macau were wary. They protested the British occupation and turned to the Qing authorities for protection. Jiaqing responded by putting Macau under Qing protection in return for a Portuguese guarantee that no foreign forces would be allowed in the city without Qing consent.⁴ Qing authorities used the opportunity to reaffirm their sovereignty over Macau.⁵ Despite recognising the maritime threat posed by the Royal Navy, of which Portuguese officials warned, Qing officials were unable to deal with piracy on their own and began allowing British armed ships into the inner seas of the Pearl River Delta to suppress it.⁶ The EIC responded by fitting out the *Antelope* to cruise against pirates. When the ship arrived at Macau in May 1806, local Qing authorities were content to accept its presence despite protestations and warnings from the Portuguese.⁷

³ Morse, *Chronicles*, vol. 2, 421-425.

⁴ Wensheng Wang, *White Lotus Rebels and South China Pirates: Crisis and Reform in the Qing Empire* (Cambridge, MA: Harvard University Press, 2014), 235-239.

⁵ Frederic Wakeman, Jr., 'Drury's Occupation of Macau and China's Response to Early Modern Imperialism,' *East Asian History* 28 (December 2004), 28. Though Portuguese officials considered Macau their possession, the government there paid an annual rent for the territory and the Qing government did not recognise Macau as under Portuguese sovereignty until 1887. Robert Nield, *China's Foreign Places: The Foreign Presence in China in the Treaty Port Era, 1840-1943* (Hong Kong: Hong Kong University Press, 2015), 157-158.

⁶ See Murray, 'Guangdong', 147. Ronald C. Po, 'Mapping Maritime Power and Control: A Study of the Late Eighteenth Century *Qisheng Yanhai Tu* (A Coastal Map of the Seven Provinces)', *Late Imperial China* 7, no. 2 (December 2016), 116-117.

⁷ Morse, *Chronicles*, vol. 3, 33. The Qing had previously banned foreign warships from entering the inner seas. See Edict from the Governor-General, Jiaqing reign (JQ) 4th year/10th month/22nd day (19 November 1799), Foreign Office Records (FO) Consulates and Legations, China: Miscellaneous Papers and Reports (233)/189, 34, The National Archives (TNA), Kew, UK.

The Macanese authorities proved prescient in their suspicions. The introduction of a British naval presence in the Pearl River Delta catalysed British maritime aggression culminating in a second attempt to occupy Macau in 1808, once again bringing the Qing into confrontation with the British Empire.⁸ British belligerence did not stem solely from the geopolitical dimensions of the Peninsular War. In hopes of securing approval from India for the occupation of Macau, the EIC Select Committee at Canton reported that

from the excessive corruption and weakness that exists in this provincial Government, all instructions or attempts to suppress the Ladrones are either evaded or are nugatory, and we believe they would most cheerfully see Macao in the possession of the English from an expectation that the Pirates would no longer be allowed to infest the Coast.⁹

The suppression of piracy provided a sort of moral justification for intervention, though British policymakers were in reality far more concerned about the threat from France.¹⁰ A British squadron under Rear-Admiral William O'Brien Drury reached Macau on 11 September 1808. The Canton authorities responded by banning maritime trade with Britain, a method also used against pirates. The tactic succeeded. The China trade proved too valuable to the EIC, which sided with the Portuguese against Drury's bellicosity. Drury withdrew from Macau on 20 December.¹¹ The maritime threat from British warships subsided, but piracy remained problematic. In desperation, Qing officials turned again to the British, recently seen as invaders, for assistance. Although Emperor Jiaqing authorised Governor-General Bailing to attack British warships in Chinese waters on 29 April 1809, a representative of the magistrate ([*zhi*]xian) at Xiangshan, the administrative district adjacent to Macau, requested that Company officers send HMS *Dedaigneuse* up the Pearl River Delta to combat piracy the following September.¹² The magistrate would permit the *Dedaigneuse* to 'proceed above the Bogue (€ he had authority to carry her beyond that Fort)' to attack the ladrones from the river, while his forces would cut off

⁸ Wang, *White Lotus Rebels*, 229.

⁹ Select Committee to Lord Minto, 8 March 1808, quoted in Morse, *Chronicles*, vol. 3, 86.

¹⁰ Wakeman, 'Drury's Occupation', 30.

¹¹ Ibid, 31-33. Wang, *White Lotus Rebels*, 241-245.

¹² Morse, *Chronicles*, vol. 3, 117-118. Wang, *White Lotus Rebels*, 248.

their retreat.¹³ By October, even the governor ([*xun*]*fu*) of Guangdong sought British naval assistance against the *ladrones*.¹⁴ Qing authorities also eventually accepted Portuguese help in the form of six ships, partly crewed by British sailors.¹⁵ British warships and seamen supported Qing officials' ultimately successful efforts to suppress the *ladrones*.

Chinese piracy persisted after the surrender of Zhang Bao and Zheng Yi Sao, and the British fear of recidivism among the ex-pirates proved warranted, as many former members of the pirate confederation continued their depredations.¹⁶ Even with the end of large-scale professional piracy, piratical depredations still occasionally befell Western ships, and had their effects on the China trade. On 26 May 1817, a group of Chinese pirates disguised as compradors, provisioners for foreign ships, boarded the American ship *Wabash*, attacked the crew, and plundered the vessel. The American consul, with the support of EIC representatives, pressured Qing authorities at Canton into making an inquiry and holding a trial. Qing officials acquiesced but used the opportunity to criticize the opium trade. While approving the execution of five Chinese as retribution for the five Americans killed, the governor-general refused to pay compensation for property lost on suspicion that the *Wabash* had been carrying in opium. The incident provided officials at Canton with a justification for enacting more stringent regulations on shipping to limit the import of opium.¹⁷ Qing bans on opium had existed since 1729, and the continued flow of the substance led to further bans in 1799 and 1836.¹⁸ Piracy contributed to the opium problem. Pirates themselves engaged in smuggling, and Qing impotence against piracy in the late eighteenth and early nineteenth centuries emboldened foreign merchants to

¹³ Entry for 10 September 1809, India Office Records (IOR)/ Factory Records: China and Japan (G/12)/167, 187, the British Library (BL). The *Bogue*, also called the *Bocca Tigris* (Humen), sat at the mouth of the Pearl River on the approach to Canton. HMS *Dedaigneuse* was a French prize.

¹⁴ Entry for 30 October 1809, IOR/G/12/168, 55-56.

¹⁵ Morse, *Chronicles*, vol. 3, 122.

¹⁶ Ibid, 144-145. Robert J. Antony, 'Sea Bandits of the Canton Delta, 1780-1839', *International Journal of Maritime History* 17, no. 2 (December 2005), 9.

¹⁷ Morse, *Chronicles*, vol. 3, 318-321.

¹⁸ Paul A. Van Dyke, *The Canton Trade: Life and Enterprise on the China Coast, 1700-1845* (Hong Kong: Hong Kong University Press, 2007), 121-134.

engage in smuggling as well.¹⁹ Qing measures against the opium trade represented a cognizance of and attempt to suppress a new type of ‘pirate’ – the foreign merchant.²⁰ Perhaps the greatest crime perpetrated by these new pirates occurred in 1841, when one of their chieftains secured the cession of a small island off the southeast coast of the Qing Empire. These ‘pirates’ were agents of the British Empire, and the island they occupied was Hong Kong.

The Cession of Hong Kong and Imposition of British Rule(s)

More than fifty years before British authorities established a colony on Hong Kong, they had envisioned ‘a place of Security as a Depot for our Goods which cannot be sold off, or shipped during the short season that is allowed for Our Shipping to arrive and depart’ in China. They sought ‘to obtain a Grant of a small tract of Ground, or detached Island’ for such a depot.²¹ The negotiation for the cession of such a depot as well as expanded trading privileges fell to Lieutenant-Colonel Charles Cathcart, whom King George III appointed as royal ambassador to China. Cathcart set out for China on 21 December 1787 but died en route six months later.²² His intended mission to China was instead completed by Lord George Macartney. In 1792, Henry Dundas, president of the East India Company’s Board of Control, dispatched Macartney on a mission to China with the same instructions to secure the session of a ‘depot’ for British trade in China.²³ Macartney obtained an audience with Emperor Qianlong, who British

¹⁹ Wang, *White Lotus Rebels*, 246-247. Antony, ‘Sea Bandits’, 11. See also Michael Greenberg, *British Trade and the Opening of China, 1800-1842* (Cambridge: Cambridge University Press, 1951) and John King Fairbank, *Trade and Diplomacy on the China Coast: The Opening of the Treaty Ports, 1842-1854* (Cambridge, MA: Harvard University Press, 1964; originally published in two volumes by Harvard University Press, 1953), 74-78.

²⁰ Anthony Reid notes that ‘piracy’ in the Chinese context was ‘a maximalist category, potentially including almost all the international maritime commerce of the world’s largest economy’, citing foreign merchants violating maritime trade bans as an example. Anthony Reid, ‘Violence at Sea: Unpacking “Piracy” in the Claims of States over Asian Seas’ in *Elusive Pirates, Pervasive Smugglers: Violence and Clandestine Trade in the Greater China Seas*, ed. Robert J. Antony (Hong Kong: Hong Kong University Press, 2010), 18.

²¹ ‘Instructions to Lt.-Col. Cathcart, Nov. 30th, 1787’, in Appendix B of Morse, *Chronicles*, vol. 2, 164. Foreigners were only allowed to trade in Canton for part of the year. During the off-season, they were forced to relocate to the Portuguese settlement of Macau. Van Dyke, *Canton Trade*, 13.

²² Morse, *Chronicles*, vol. 2, 151-163.

²³ ‘Instructions to Lord Macartney, Sept. 8, 1792’ in Appendix G of Morse, *Chronicles*, vol. 2, 237. Macartney was simultaneously a representative of the King and the EIC.

accounts claimed behaved superciliously and treated Macartney with contempt. The emperor flatly rejected Macartney's request for 'a small Place either near Canton, or Macao; where [British] Merchants might dwell, and come and go at their Option'.²⁴ British attitudes towards Qing policy thereafter became increasingly hostile.

With the termination of the EIC's monopoly over the China trade in 1833, the Superintendent of Trade replaced the Select Committee, the EIC body in charge of British affairs in Canton. The following year Foreign Secretary Lord Palmerston sent Lord William John Napier, a distinguished captain in the Royal Navy and advocate of free trade, to China as the first chief superintendent of trade. Napier served as the first representative of the British government in China, Sino-British relations having previously been mediated through the EIC. As such, Napier saw himself as an equal to Qing officials and attempted to act accordingly. When he tried to negotiate directly with the governor-general instead of through the Cohong merchants, the Canton authorities responded with scorn. In a foreboding move, Napier waxed belligerent and called on HMS *Andromache* and HMS *Imogene* to bombard the Chinese forts at the Bogue. Portentously, he further suggested that the British send an expeditionary force to seize the island of Hong Kong. Napier was the first British official to call for military measures to secure the 'depot' that Cathcart sought and to suggest that it be located on Hong Kong. Napier's bellicosity failed to impress Qing officials at Canton, who continued to reject calls for negotiation. Napier withdrew in disgrace to Macau where he later died of fever, the 'Napier fizzle' having achieved nothing but providing a martyr for the British cause of freer trade in China.²⁵ Napier's pugnacity passed on to the British mercantile community in China. Increasingly frustrated with the restrictions of the Canton System of trade developed at that

²⁴ 'Answer of the Emperor of China to the King of England', in Appendix J of Morse, *Chronicles*, vol. 2, 250. For a detailed account of Macartney's embassy and its reception by the Qing, see James Hevia, *Cherishing Men from Afar: Qing Guest Ritual and the Macartney Embassy of 1793* (Durham, NC: Duke University Press, 1995).

²⁵ Robert Bickers, *The Scramble for China: Foreign Devils in the Qing Empire, 1832-1914* (London: Penguin Books, 2012), 45-47. Stephen Platt, *Imperial Twilight: The Opium War and the End of China's Last Golden Age* (London: Atlantic Books, 2018), 282-284. Steve Tsang, *A Modern History of Hong Kong* (Hong Kong: Hong Kong University Press, 2004), 7-9.

port, they pressured Napier's successor as superintendent of trade, Captain Charles Elliot, to take a more confrontational stance while their representatives in Britain requested that the British government engage in hostilities. British lobbying at home and in China culminated in the first Opium War.²⁶

During the Opium War, Cathcart's charge of securing a territorial possession for use as an entrepôt was fulfilled by the Convention of Chuenpi (Chuanbi) negotiated between Elliot and Qing Imperial Commissioner Qishan. In the treaty, Elliot secured 'the cession of the island and harbor of Hongkong to the British crown', though details of the transfer of sovereignty remained to be negotiated.²⁷ Within a week of the conclusion of the Convention of Chuenpi, the British flag was raised over Hong Kong on 26 January 1841 on the north shore of Hong Kong Island at a place later known as Possession Point.²⁸ Shortly thereafter, Elliot proclaimed that 'pending Her Majesty's further pleasure, the natives of the island of Hongkong, and all natives of China thereto resorting, shall be governed according to the laws and customs of China, every description of torture excepted'. Elliot intended that the Chinese in Hong Kong would be governed separately from 'all British subjects and foreigners' who would 'enjoy full security and protection, according to the principles and practice of British law.' In this newly acquired Crown Colony, the Chinese inhabitants were to be put under a foreign (i.e. Qing) criminal justice system while 'Her Majesty's subjects, or other persons than natives of the island or of China... shall fall under the cognizance of the criminal and admiralty Jurisdiction' of Britain.²⁹

²⁶ Julia Lovell, *The Opium War: Drugs, Dreams and the Making of China* (London: Picador, 2011), 96-108. John Carroll notes that prior to 1833, many merchants actually praised the system of trade regulation developed at Canton, and that part of the resentment of the system was actually frustration with the EIC monopoly. John M. Carroll, 'The Canton System: Conflict and Accommodation in the Contact Zone', *Journal of the Royal Asiatic Society Hong Kong Branch* 50 (2010), 51-66.

²⁷ Charles Elliot, 'To Her Britannic Majesty's Subjects', 20 January 1841 in *Chinese Repository*, vol. 10, no. 1, January 1841, 64.

²⁸ John M. Carroll, 'Colonialism and Collaboration: Chinese Subjects and the Making of British Hong Kong', *China Information*, 12, nos. 1/2 (Summer/Autumn 1997), 16. See also K.J.P. Lowe, 'Hong Kong, 26 January 1841: Hoisting the Flag Revisited', *Journal of the Royal Asiatic Society Hong Kong Branch*, 29 (1989), 8-17,

²⁹ Proclamation by Charles Elliot, 29 January 1841, Colonial Office Records (CO) Hong Kong, Original Correspondence (129)/10, 4, TNA. The formalisation of extraterritoriality in the Treaty of Nanking, discussed below, simply codified a practice that had developed earlier in the Canton System. See Carroll, 'Canton System', 63.

Elliot sought to invert the system of extraterritoriality developed informally by the British community at Canton and apply it to Hong Kong. Extraterritoriality results from a legal compromise in which foreigners in a sovereign state remain under the jurisdiction of their own state. Supposedly, extraterritorial privileges could only be secured through bilateral treaty, with the default situation in international law being that such foreigners were under the jurisdiction of the state in which they were located. Officers of the East India Company, which functioned as the British judicial authority in its territories, made several attempts to negotiate extraterritorial privileges for British subjects in China, none of which were formally granted by the Qing. The *Lady Hughes* affair of 1784 marked a watershed in the British acceptance of this status quo. During the incident, the Qing executed a possibly innocent British sailor from the country ship *Lady Hughes* after a gunner from its crew had killed a Chinese boatman when firing a salute. After the execution, Britons in China began to see the Qing justice system as barbaric and arbitrary and refused to submit to Qing law. The execution outraged the British public, and Westminster moved to unilaterally declare extraterritorial jurisdiction over British subjects in Canton. In 1787, the British Parliament granted EIC supercargoes the right to send British subjects to England for trial and punishment.³⁰ In 1833, Parliament passed 'An Act to Regulate the Trade of China and India' (3 & 4 William IV, c. 93), section six of which called for the establishment of 'a Court of Justice with Criminal and Admiralty Jurisdiction for the Trial of Offences committed by His Majesty's Subjects within the said Dominions [of the Emperor of China], and the Ports and Havens thereof, and on the High Seas within One hundred Miles of the Coast of China.'³¹

³⁰ See Li Chen, 'Law, Empire, and Historiography of Modern Sino-Western Relations: A Case Study of the "Lady Hughes" Controversy in 1784', *Law and History Review* 27, no.1 (Spring, 2009), 1-53. Grace Estelle Fox, *British Admirals and Chinese Pirates, 1832-1869* (London: K. Paul, Trench, Trubner & Co., 1940), 35-40. Ironically, where Britons complained that Qing law did not distinguish between murder and manslaughter in the *Lady Hughes* case, Qing officials believed their laws treated pirates with more nuance. See Chapter Three, note 101.

³¹ Quoted in *The Statutes of the United Kingdom of Great Britain and Ireland, 3 & 4 William IV. 1833* (London: His Majesty's Printers, 1833), 903. Emphasis in original.

The court authorised by the act amounted to a British attempt to unilaterally declare extraterritorial jurisdiction in China. Such an act would have been a flagrant violation of Qing law. The Qing Code of 1646 declared that ‘all aliens who come to submit themselves to the government of the empire shall, when they commit offenses [on Chinese soil] be sentenced according to the Chinese Penal Code.’³² After 1744, however, the Qing seemed content to settle for a policy of ‘deferring to barbarian wishes’, allowing leaders of foreign communities to administer justice and asserting Qing jurisdiction only in cases of homicide involving Qing subjects.³³ Such deferment to leaders of foreign communities in China was no innovation of the Qing. The concession of extraterritorial privileges in China dates back at least to the Tang Dynasty (618-907 CE). The Tang Code stipulated that in offences where both parties were foreigners, the case should be tried according to foreign laws. The Arabs trading at Canton were among the first to receive extraterritorial privileges in China.³⁴ Qing authorities inherited the Tang willingness to allow foreigners to be governed by their own leaders and laws. Extraterritoriality was as much a Chinese as a British practice.

Elliot’s application of the practice of extraterritoriality to the Chinese in Hong Kong represents an instance of what Lauren Benton terms ‘legal posturing’, a compromise between the legal regime of an imperial power and local politics in which the former is adapted to the latter.³⁵ Elliot’s legal posturing adapted to two legal regimes: that of the Qing and that of the Canton System and the extraterritoriality informally practiced there. His declaring the rule of Qing law over the Chinese in Hong Kong represents an extreme case of legal posturing in which the pre-existing legal regime was retained almost entirely intact with the notable exception of the practice of torture. Though extreme, the British willingness to engage in such legal posturing

³² Quoted in R. Randle Edwards, ‘Ch’ing Legal Jurisdiction over Foreigners’, in *Essays on China’s Legal Tradition*, ed. Jerome Alan Cohen, R. Randle Edwards, and Fu-mei Chang Chen (Princeton: Princeton University Press, 1980), 224.

³³ Edwards, ‘Ch’ing Legal Jurisdiction’, 223.

³⁴ Mark Mancall, ‘The Ch’ing Tribute System: An Interpretive Essay’ in *The Chinese World Order: Traditional China’s Foreign Relations*, ed. John King Fairbank (Cambridge, MA: Harvard University Press, 1968), 82.

³⁵ Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900* (Cambridge: Cambridge University Press, 2010), 24-25.

was evident as early as 1787 in Cathcart's instructions to secure a British entrepôt, which contained a similar conditional:

Should it be required that no native Chinese be subject to be punished by Our jurisdiction, or should any particular modification of this Power be exacted, it is not material to insist upon it, provided British Subjects can be exempted from the Chinese Jurisdiction for Crimes they may commit and that the British Chief be not held responsible if any culprit should escape the pursuit of Justice, after search has been made by British and Chinese Officers acting in conjunction.³⁶

It should come as no surprise that the instructions to the Cathcart embassy, which had been galvanized in part by the *Lady Hughes* affair, should contain such a clause protecting British subjects from Qing jurisdiction. The longevity of the concern over the perceived arbitrariness and barbarity of Chinese law manifested in Elliot's legal posturing over fifty years later and had a profound effect on British perceptions of Chinese law.³⁷

Notably, where EIC authorities seemed content to allow Qing officials to retain jurisdiction over the Chinese in a British entrepôt, in Elliot's Hong Kong, a Crown rather than a Company territory, 'all native persons residing therein' became 'subjects of the Queen of England, to whom and to whose officers they must pay duty and obedience.' Jurisdiction over the Chinese would be exercised 'by the elders of villages, subject to the control of a British magistrate.' British officials were thus ultimately responsible for governing the Chinese in Hong Kong 'according to the laws, customs, and usages of the Chinese.'³⁸ The shift from a reliance on indigenous institutions and individuals to the British codification and administration of indigenous law reflects a broader trend of modern imperial governance. In Bengal, Company servants shifted from rule by contemporary local custom in the 1790s to an attempted codification of ancient law to be administered by EIC officials.³⁹ George Thomas Staunton's

³⁶ 'Instructions to Lt.-Col. Cathcart, Nov. 30th, 1787', in Appendix B of Morse, *Chronicles*, vol. 2, 165.

³⁷ Notably, John Francis Davis, EIC writer, superintendent of British trade, and later governor of Hong Kong, was strongly influenced by the *Lady Hughes* affair in his views of Chinese law. The concept of Chinese legal 'barbarity' persisted well into the twentieth century. Chen, 'Law, Empire, and Historiography', 39-52. See also idem, *Chinese Law in Imperial Eyes: Sovereignty, Justice, and Transcultural Politics* (New York: Columbia University Press, 2016).

³⁸ 'Proclamation' by Commodore J.G. Bremer and Elliot, 1 February 1841, in *Chinese Repository*, vol. 10, no. 1, January 1841, 64.

³⁹ See Jon E. Wilson, *The Domination of Strangers: Modern Governance in Eastern India, 1780-1835* (Hampshire: Palgrave Macmillan, 2008), 129-131.

translation of the Qing Code in 1810 made a similar system possible in China.⁴⁰ The result was an adaptation of extraterritoriality for the Chinese in Hong Kong. While the Chinese in Hong Kong were still theoretically ruled by Qing law, they were under the jurisdiction of British officials, who would administer that law. In his legal posturing, Elliot adopted the extraterritoriality of the Canton System, but adapted it to reflect the ascendancy of British power in China.

Elliot's legal posturing proved premature. The Qing court rejected the Convention of Chuenpi, while Foreign Secretary Lord Palmerston believed the concessions insufficient. British power in China was yet in the ascendant. 'After all', Palmerston declared, 'our naval power is so strong that we can tell the Emperor what we mean to hold rather than that he should say what he would cede.'⁴¹ The rejection of the Convention of Chuenpi by both the Qing and British governments led to renewed hostilities. Despite the resumption of the war, British merchants, particularly the firm of Jardine, Matheson and Co., were quick to seize on the opportunity provided by the short-lived Convention of Chuenpi and began the process of establishing a British settlement on Hong Kong. By the time Henry Pottinger replaced Elliot as the superintendent of trade and British plenipotentiary in China, he noted that the 'settlement had already advanced too far to admit its ever being restored to the authority of the Emperor consistent with the Honour and Advantage of Her Majesty's Crown and Subjects.'⁴² Against the will of Palmerston's successor, the Earl of Aberdeen, Pottinger decided to negotiate for the retention of Hong Kong in the Treaty of Nanking (Nanjing), the first of China's 'unequal treaties' imposed by gunboat diplomacy.⁴³ The stunning naval victories achieved by British forces, particularly HEICS *Nemesis*, an iron-hulled armed steamship, affirmed the British confidence

⁴⁰ Chen, *Chinese Law*, 69-71, 105-108. Idem, 'Law, Empire, and Historiography', 41

⁴¹ Palmerston to Elliot, 3 February 1841, FO 17/45, quoted in W.C. Costin, *Great Britain and China, 1833-1860* (Oxford: Clarendon Press, 1937), 89.

⁴² Pottinger to Aberdeen, 20 May 1842, FO 17/20, quoted in Tsang, *Modern History*, 17.

⁴³ John Y. Wong, 'The Limits of Naval Power: British Gunboat Diplomacy in China from the *Nemesis* to the *Amethyst*, 1839-1949', *War & Society*, 18, No. 2, (October 2000), 97. See also Costin, *Great Britain and China*, 89-102. Gerald S. Graham, *The China Station: War and Diplomacy, 1830-1860* (Oxford: Clarendon Press, 1978), 144-153. Tsang, *Modern History*, 16-18. On the unequal treaties, see Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge: Cambridge University Press, 2004), 72-73.

in the superiority of their civilization. After validation in the Treaty of Nanking, British authorities decided that even Elliot's legal posturing, which gave British officials the right to administer Chinese law, ceded too much to Qing authorities. Early colonial administrators instead sought to make Hong Kong an island of British sovereignty off the coast of China.

Establishing an Island of Sovereignty

His Majesty the Emperor of China cedes to Her Majesty the Queen of Great Britain, etc., the Island of Hongkong, to be possessed in perpetuity by Her Britannic Majesty, Her Heirs and Successors, and to be governed by such Laws and Regulations as Her Majesty the Queen of Great Britain, etc., shall see fit to direct.⁴⁴

Article III of the Treaty of Nanking gave British authorities the right, at least on paper, to govern Hong Kong as they saw 'fit'. The task of overseeing this governance fell to the governor of Hong Kong, to whom Queen Victoria granted the power

to enact with the advice of the Legislative Council of the said Island of Hong Kong all such Laws and Ordinances as may from time to time be required for the peace, order, and good government of Our Subjects being within the dominions of the Emperor of China, or being within any Ship or Vessel at a distance of not more than One hundred Miles from the Coast of China⁴⁵

In addition to holding authority over all British subjects in China and off its coast, the governor of Hong Kong commanded the obedience of 'all our Officers and Ministers, Civil and Military, and all other, the Inhabitants of our Said Colony of Hong Kong.'⁴⁶ The governor furthermore held 'authority over H.M.'s Naval Forces in the China Seas', specifically 'that part of H.M.'s Naval Forces actually on the Coast of China, & so long as they remain on the Coast.'⁴⁷ He also served concurrently, until 1859, as British plenipotentiary and superintendent of trade in China with authority over the consuls at the treaty ports and responsibility for relations between

⁴⁴ Article III, 'Treaty of Nanking' in Imperial Maritime Customs (IMC), *Treaties, Conventions, etc., Between China and Foreign States*, vol. 1 (Shanghai: Statistical Department of the Inspectorate General of Customs, 1908), 160.

⁴⁵ 'Commission under the Great Seal, Victoria R.', 26 August 1843, CO 129/3, 315-316.

⁴⁶ 'Letters Patent' (The Hong Kong Charter), 1843, quoted in *A Documentary History of Hong Kong: Government and Politics*, ed. Steve Tsang (Hong Kong: Hong Kong University Press, 1995), 21.

⁴⁷ Aberdeen to the Earl of Haddington, 24 August 1843, CO 129/3, 300, 302.

Britain and China.⁴⁸ When Henry Pottinger became the first governor of Hong Kong, he was a man of impressive authority.

The unprecedented powers of the governor of Hong Kong reflected the anomaly of the new colony in the British Empire. Colonial Secretary Lord Stanley noted that ‘among the various colonial dependencies of the British Empire, there is no case which forms so remarkable an exception to ordinary rules as that of the island of Hong Kong.’⁴⁹ Though Hong Kong was not the first Crown Colony established in Asia, the island’s position at the edge of the Qing Empire, as well as the tenuousness of the British position there (two and a half years passed between the defunct Convention of Chuenpi and the ratification of the Treaty of Nanking on 26 June 1843), necessitated greater central control than existed elsewhere in the British Empire.⁵⁰ Each of the first three governors of Hong Kong had cut their teeth as Company servants in either India, Canton, or the Straits Settlements, and had more familiarity acting on behalf of the Company rather than the Crown. As governors of Hong Kong, however, their authority exceeded that of most colonial officials in Asia. Only the governor-general (later viceroy) of India had comparable authority.⁵¹ Colonial officials in Hong Kong thus found themselves uniquely positioned to assert British sovereignty over the colony. Where EIC representatives engaged in legal posturing in establishing their jurisdiction over Asian territories and peoples, the unique status of Hong Kong and the prodigious authority wielded by its governors allowed the development the new colony’s legal system to follow a different route.

As in the Convention of Chuenpi, the cession of Hong Kong in Article III of the Treaty of Nanking proved vague, and its execution would require further negotiation between Qing and British authorities. Misunderstanding between British and Qing officials over the fledgling treaty

⁴⁸ Fox, *British Admirals*, 35-40. Graham, *China Station*, 254-256. Costin, *Great Britain*, 115.

⁴⁹ Secretary Lord Stanley to Governor Pottinger, dispatch 8, 3 June 1843, quoted in *Government and Politics*, ed. Tsang, 17.

⁵⁰ G.B. Endacott, *Government and People in Hong Kong 1841-1962: A Constitutional History* (Hong Kong: Hong Kong University Press, 1964), 25. George H.C. Wong even went so far as to call the British occupation of Hong Kong between the rejection of the Convention of Chuenpi and the ratification of the Treaty of Nanking illegal. See George H.C. Wong, ‘The Ch’i-Shan-Elliot Negotiations Concerning and Off-Shore Entrepôt and a Re-Evaluation of the Abortive Chuenpi Convention,’ *Monumenta Serica* 14 (1949-1955), 573.

⁵¹ Whitehall limited the authority of the governors-general of India over the Royal Navy after the First Anglo-Burmese War (1824-1826). Graham, *China Station*, 192-193.

system led to disagreements about their respective roles in the colony. At the heart of the debate was the position of Chinese in Hong Kong vis-à-vis colonial and Qing authorities. Shortly after the signing of the Treaty of Nanking, Pottinger was already struggling with the problem of crime on the island. He complained to Aberdeen that 'I cannot yet see how a large and mixed Native Population is to be kept in order, unless our officers on the spot are vested with what may be termed *Police* Authority, in contradistinction to *Judicial* powers'. Pottinger thus initially seemed willing to accept the legal posturing in Cathcart's orders, leaving the Chinese population of Hong Kong under Qing jurisdiction. However, he would consent only to continued Qing jurisdiction over the Chinese in Hong Kong on the condition that they submit to the colonial police. Under such an arrangement, it seems, the police in Hong Kong could arrest Chinese criminals but would have to deliver them to Qing courts for the administration of justice. Pottinger remarked of this unwieldy system that 'the difficulty could be at once reconciled by allowing a Chinese Officer to reside on the Island to superintend the Police of the Chinese people', but he further stated that he was 'loath' to accept such an arrangement.⁵²

Qiyong (Keying or Kiying in English sources), the Qing imperial commissioner, willingly accepted Pottinger's legal posturing with a notable caveat:

There being no Chinese Officer established in Hongkong, it is out of the question to deny English Officers the police surveillance and restraint over [the Chinese in Hong Kong], but that the people of China should be unwilling to obey the Laws of England is a thing of the same nature as the refusal of the English Merchants and People to be forcibly ruled by the Law of China.

Noting the intractability of the British mercantile community at Canton, Qiyong foresaw a similar situation for the Chinese in Hong Kong. As a pre-emptive measure, he sought to ape the solution developed by British authorities to resolve incompatible legal systems at Canton and thus proposed a sort of extraterritoriality for the Chinese in Hong Kong. This compromise would be achieved by a continued Qing sovereignty over the Chinese population of Hong Kong despite the island's cession to Britain. While the retention of Qing sovereignty in Hong Kong might

⁵² Sir Henry Pottinger to Lord Aberdeen, 16 October 1842, CO 129/3, 98. Emphasis in original

have represented legal posturing on the part of the British colonial officials, Qiying seems to have assumed such an arrangement implicit in the cession of Hong Kong.

As regards the Article in the Treaty which stipulates that Hong Kong shall come under the authority and government of England, this had reference to the cession of the ground for the merchants and people of the [sic] H.M.'s Country to repair their vessels and store their goods there; it was not therein provided that its Inhabitants should become English people.⁵³

Interpreting Article III of the Treaty of Nanking, which ceded the 'Island of Hong Kong' to British rule to refer literally to only the island and none of its inhabitants, Qiying seems to have believed that while Qing territory could be alienated, Qing subjecthood could not. As the Chinese in Hong Kong were still to be considered Qing subjects, they 'ought to be governed by our Chinese Mandarins as before'.⁵⁴ With such an understanding of the cession in Hong Kong, Qiying would have accepted the proposed arrangement in Cathcart's instructions in 1787 as well as Pottinger's subsequent legal posturing.

Unfortunately for Qiying, the political circumstances of the legal posturing in Cathcart's instructions had changed. While a docile EIC might have been willing to accept continued Qing sovereignty over the Chinese population of a Company depot, the British government, which had just won Hong Kong through victory in a war, proved less accommodating. With their empire in the ascendant, British policymakers became more brazen in pressing their 'sovereign thinking'. Sovereignty over British subjects became a mark of imperial prestige. Accordingly, British law and jurisdiction came to be seen as integral to the British Empire and its civilizing mission.⁵⁵ The establishment of British (more specifically, English) law was seen as essential to British rule, and the Victorians considered it an important aspect of civilisation.⁵⁶ Qing retention

⁵³ 'Extract of a Memorandum by The Chinese Commissioner Keying', undated, translator unknown, CO 129/3, 363.

⁵⁴ 'Extract from a Letter from the Imperial Commissioners and Viceroy to Sir Henry Pottinger', 13 Sept 1842, CO 129/3, 111.

⁵⁵ Li Chen modifies the concept of 'sovereign thinking' from Lydia Liu and describes it as the essential association of sovereignty with a 'sense of cultural superiority, imperial honor, and commercial and political interests.' Chen, 'Law, Empire, and Historiography', 8-10. See also Lydia Liu, *Clash of Empires: The Invention of China in Modern World Making* (Cambridge, MA: Harvard University Press, 2006).

⁵⁶ Endacott, *Government and People*, 12.

of jurisdiction over the Chinese population of a British territory would have been anathema to the British imperial project. The matter was eventually taken up to the law lords, the highest legal authorities in the British Empire.⁵⁷ They concluded that the Chinese in Hong Kong

continuing to reside there after the cession to the British Crown are no longer subjects of the Emperor of China. They are subjects of the Crown of England...

The Island of Hong Kong having been conquered by H.M.'s Forces and ceded to her in full sovereignty by the Emperor of China, we apprehend that Her Majesty may make what Laws she pleases for the govt. of all persons resident within the Island, and that no parliamentary enactment would be required for carrying such Laws into execution.⁵⁸

British authorities thus rejected Qiying's interpretation of the cession of Hong Kong and claimed absolute sovereignty over the entire population of the island. Though the Colonial Office initially rejected this ruling, the law lords' interpretation of British sovereignty in Hong Kong ultimately prevailed, and the legal posturing of 'home rule for the Chinese' never became official policy.⁵⁹ Rather than engage in legal posturing with Asian laws as they did in other possessions, British colonial officials fully implemented English law in Hong Kong.⁶⁰

Westminster's insistence on British jurisdiction over the Chinese in Hong Kong drove Pottinger to backtrack on his earlier legal posturing and insist on British sovereignty over all the inhabitants of Hong Kong. His successor, John Francis Davis, insisted even more fervently that Britain have jurisdiction over the Chinese. Having intimate experience of Sino-foreign relations before the Treaty of Nanking, Davis strove to ensure that Hong Kong would not follow the example of the 'Portuguese pseudo-colony of Macao', which he believed was 'not a Portuguese colony, as the Chinese are acknowledged sovereigns'. Instead, noting that Hong Kong 'possesses untried advantages which may convert it into a modern Tyre', Davis proclaimed:

There is a real British Colony (no Portuguese counterfeit) placed on the very threshold of China. There they may see commerce flourishing in the absence of restrictions, –

⁵⁷ John Y. Wong, *Deadly Dreams: Opium and the Arrow war (1856-1860) in China* (Cambridge: Cambridge University Press, 1998), 60.

⁵⁸ Dodson, Pollock, and Follett to Aberdeen, 18 March 1843, CO 129/3, 169-170.

⁵⁹ The phrase is Endacott's. For the British debate on Chinese home rule see Endacott, *Government and People*, 27-38.

⁶⁰ Christopher Munn, *Anglo-China: Chinese People and British Rule in Hong Kong, 1841-1880* (Hong Kong: Hong Kong University Press, 2009; originally published by Curzon Press, 2001), 163-164. See also Anton Cooray, 'Asian Customary Laws through Western Eyes: A Comparison of Sri Lankan and Hong Kong Colonial Experience' in Louis A. Knafla and Susan W.S. Binnie, ed. *Law, Society, and the State: Essays in Modern Legal History* (Toronto: University of Toronto Press, 1995), 145-177.

prosperity & power secure under the protection of equal laws, – and, in a word, all the best fruits of science & civilization have planted direct from the European headquarters.

For Davis, the introduction of ‘equal’ (i.e. English) laws became more than a matter of British sovereign thinking; it would help fulfil the goals of the Opium War and subsequent Treaty of Nanking which ‘admitted, or rather compelled [China], for the first time in the history of the world, into the family of civilized nations.’⁶¹

Essential to this admission into the ‘family of civilized nations’ was the acceptance of the ‘law of nations’ as international law was known in the mid-nineteenth century. Though the law of nations initially emerged out of negotiations and reconciliation between different state systems on roughly equal terms, by the early-nineteenth century it had become entirely European-dictated through the exclusion of Asian polities from the family of civilized states. Control of membership in this family became the remit of European states. British naval supremacy, established after the Battle of Trafalgar (1805), meant that in the nineteenth century Britain became the senior member of the family, wielding the most influence over the dictates of the law of nations. As arbiters of international law, British authorities were able to pressure the legal practices of other states and empires to conform to a British model.⁶² Throughout the nineteenth century, Great Britain and its proxy, the EIC, had steadily expanded the British Empire in Asia. British and Company sovereignty allowed British officials to better dictate international and maritime law, often to the benefit of their empire. In such a legal context, Hong Kong held particular importance. As an island of British sovereignty, Hong Kong represented the furthest extension of an archipelago of British power, stretching from Calcutta across the Bay of Bengal and the South China Sea to the coast of China, where the British-enforced law

⁶¹ Davis to Stanley, 21 December 1843, CO 129/4, 275-278. Emphasis in original.

⁶² See C.H. Alexandrowicz, *An Introduction to the History of the Law of Nations in the East Indies (16th, 17th, and 18th Centuries)* (Oxford: Clarendon Press, 1967). A.P. Anand, *Origin and Development of the Law of the Sea* (The Hague: Martinus Nijhoff, 1983), 135-136. Alfred P. Rubin, *The Law of Piracy* (Newport, RI: Naval War College Press, 1988), 201. Benton, *Search for Sovereignty*, 157. On the ‘standard of civilisation’, see Arnulf Becker Lorca, *Mestizo International Law: A Global Intellectual History* (Cambridge: Cambridge University Press, 2014), 65-75. Mark Mazower, *Governing the World: The History of an Idea* (New York: Penguin, 2012), 70-78. Anghie, *Imperialism*, 84-87.

of nations held sway.⁶³ While the extension of this archipelago into Southeast Asia allowed British imperial interests to challenge Chinese suzerainty there, Hong Kong punctured fabric of Qing sovereignty in the core zone of Chinese world order.⁶⁴

The colony of Hong Kong thus presented British authorities with a means of bringing English law and the law of nations to the China coast. The need to secure this advantage helps explain the British refusal to engage in legal posturing in Hong Kong as well as the promptness with which English law was introduced into the colony. Davis acted upon his enthusiasm to see the implementation of English law in Hong Kong and passed Ordinance No. 15 of 1844, establishing the Supreme Court in Hong Kong. The court would execute the ordinance's stipulation that 'the law of England shall be in full force in the said Colony of Hongkong'.⁶⁵ The Supreme Court of Hong Kong heard its first criminal case on 2 October 1844. The wholesale implementation of English law in Hong Kong would prove problematic, however, and colonial officials, including Davis, ultimately did engage in legal posturing and reforms, but the principle of the sovereignty of English law over the population of Hong Kong remained firm.⁶⁶ Despite having more or less established English law and sovereignty in Hong Kong, the colonial administration struggled to maintain order in the colony. Hong Kong's proximity to China, where a different legal system existed, and the Qing inability to govern the Cantonese water world, exacerbated the problems of imposing English law on a predominately Chinese population. Establishing the foundations for a successful entrepôt and market off the China coast, the 'modern Tyre' of Davis's aspirations, required controlling Hong Kong's hydrarchy.

⁶³ I owe this insight to Prof. Robert Bickers and his comments on my presentation at the New Directions in Hong Kong History 'Work-in-Progress' Postgraduate Workshop at the University of Bristol, 12-13 January 2017.

⁶⁴ For a discussion of the 'core' of Tianxia ('all under heaven') and the Chinese worldview see He Xinhua, *Zuihou de tianchao: Qingdai chaogong zhidu yanjiu* [The Last Celestial Empire: A Study of the Tributary System in the Qing Dynasty] (Beijing: Renmin chubanshe, 2012), 25-27. See also John King Fairbank, 'A Preliminary Framework' in *The Chinese World Order*, ed. Fairbank, 1-5.

⁶⁵ Quoted in James William Norton-Kyshe, *The History of the Laws and Courts of Hong Kong: Tracing Consular Jurisdiction in China and Japan and Including Parliamentary Debates, and the Rise, Progress, and Successive Changes in the Various Public Institutions of the Colony from the Earliest Period to the Present Time*, vol. 1 (London: T. Fisher Unwin, 1898), 23.

⁶⁶ Endacott, *Government and People*, 36. Munn, *Anglo-China*, 160-173. Christopher Munn, 'The Criminal Trial under Early Colonial Rule' in *Hong Kong's History: State and Society Under Colonial Rule*, ed. Tak-Wing Ngo (London: Routledge, 1999), 47.

Sovereignty and Hong Kong Hydrarchy

Though control of unruly seafarers in Hong Kong's surrounding waters did not feature in British motivations for the island's colonisation as it did in Southeast Asia, the 'imperialism of free seas' and that of free trade influenced British policy on the island. Having decided to retain Hong Kong as a British possession, the government there decided to establish the colony as a free port on the model of Singapore.⁶⁷ As a free port open to ships of any state not at war with Britain and with low duties and harbour dues to encourage commerce, Hong Kong eventually developed the infrastructure to become an important node in networks of riverine, coastal, and oceanic shipping. By the time of the California Gold Rush in 1849, Hong Kong was well-positioned and well-endowed to serve as a centre of emigration that would transform the island.⁶⁸ In its first years under British rule, however, Hong Kong failed to fulfil Pottinger's promise that 'within six months of Hongkong being declared to have become a permanent British Colony, it will be a vast Emporium of Commerce and Wealth.'⁶⁹ The colony did not become fiscally self-sufficient until 1858. Instead, Hong Kong, which was occupied 'not with a view to colonization, but for diplomatic, commercial, and military purposes', served the British Empire most importantly in the last sense.⁷⁰

Hong Kong became an important naval base before it became an important port of trade.⁷¹ British warships would play an important role in protecting colonial shipping. The Treaty of Nanking and the subsequent 1843 Supplementary Treaty of the Bogue, discussed in more detail in the following chapter, changed the nature of the Royal Navy's relation with China. Article X of the supplementary treaty stipulated that Britain would station warship at each of the treaty

⁶⁷ 'Extract of a Despatch to Sir Henry Pottinger', 4 January 1843, CO 129/3, 37. 'Memorandum upon constituting Hong Kong a Free Port, with reference more immediately to the privileges at present enjoyed by Singapore', 7 February 1843, CO 129/4, 64-67. On the imperialism of free trade and Hong Kong see, John Gallagher and Ronald Robinson, 'The Imperialism of Free Trade', *Economic History Review*, New Series, 6.1 (1953), 1-15 and Britten Dean, 'British Informal Empire: The Case of China', *Journal of Commonwealth & Comparative Politics* 14, no. 1 (1976), 64-81

⁶⁸ Elizabeth Sinn, *Pacific Crossing: California Gold, Chinese Migration, and the Making of Hong Kong* (Hong Kong: Hong Kong University Press, 2013), 41.

⁶⁹ Pottinger to Ellenborough, 3 May 1842, FO 17/56, quoted in Munn, *Anglo-China*, 33.

⁷⁰ Stanley to Pottinger, 3 June 1843, CO 129/1843, quoted in *Government and Politics*, ed. Tsang, 17.

⁷¹ Fox, *British Admirals*, 38. Chi Man Kwong and Yiu Lun Tsoi, *Eastern Fortress: A Military History of Hong Kong, 1840-1970* (Hong Kong: Hong Kong University Press, 2014), 10. Munn, *Anglo-China*, 49.

ports, effectively granting the Royal Navy a permanent presence in China. The following year the headquarters of the East Indies and China Station was moved to Hong Kong. The station became one of the most important commands of the Royal Navy, second in size only to the Mediterranean Station.⁷² With authority over the headquarters of the second largest division of the most powerful navy in the world, the governor of Hong Kong possessed the means of projecting British power over the Cantonese water world.

Hong Kong Hydrarchy

Situated at the eastern end of the mouth of the Pearl River Delta, Hong Kong lies in the transition between riverine and inner sea zone of the Cantonese water world, where sedentary agriculture supplemented by part-time fishing gave way to fishing as a livelihood and lifestyle, and riverine shipping was replaced by coastal shipping.⁷³ That the Dan made up the largest proportion of Hong Kong's population testifies to the island's liminality.⁷⁴ The Dan likely descended ideologically if not literally from the Southern Yue people in the Chinese imagination. The Southern Yue took to living on the sea as a means of escaping the tyranny of the Qin Dynasty (221-206 BCE). By the Han Dynasty (202 BCE-220 CE), they were already known for their violence. Chinese society on land came to associate the Southern Yue's successors, the Dan, with piracy and intractability and marginalised them as a result. Rejected by their cousins on land, the Dan participated in various maritime rebellions against the ruling dynasty, including that of Koxinga.

⁷² Fox, *British Admirals*, 57-62. Graham, *China Station*, 248, 267. During my *viva voce* examination, Prof. Andrew Lambert pointed out that the British military presence in Hong Kong and China had the principal goal of protecting trade. Personal communication, 21 January 2020. The size of the British naval presence in Hong Kong may have reflected ambitions regarding the island's commercial value that did not materialise for many years.

⁷³ Murray, 'Guangdong', 147-156.

⁷⁴ Karl Gützlaff, a missionary who served as Chinese secretary, noted that the Dan 'were the most numerous class who have, since our arrival fixed themselves on the island [of Hong Kong]', quoted in Carl T. Smith, 'The Emergence of a Chinese Elite In Hong Kong,' *Journal of the Royal Asiatic Society Hong Kong Branch* 11 (1971), 82. E.J. Eitel, *Europe in China: The History of Hong Kong from the Beginning to the Year 1882* (London: Luzac & Company, 1895), 168.

By Qing times, the Dan were still considered base people and were banned from taking the civil service exams, an important means of social advancement in late imperial China. Even after Emperor Yongzheng allowed the Dan to settle on land in 1729, they continued to suffer discrimination and to contest Qing rule. Dan seafarers undoubtedly constituted a substantial proportion of the crews of the Tayson privateers and the fleets of the ladrones, which ravaged the Cantonese water world in the early nineteenth century. Zhang Bao himself was Dan as was Guo Podai, leader of the second largest fleet in the confederation.⁷⁵ The Dan thus had a prominent position in what was likely the highest level of organisation achieved by the hydrarchy of the Cantonese water world. Hong Kong played an important role in this organisation as a signal station for Zheng Yi Sao and Zhang Bao's Red Flag Fleet, the largest of the confederation's fleets.⁷⁶ Even after Zhang Bao's surrender, animosity between the Dan and their Qing rulers persisted. When the Qing Empire faced a new maritime threat in 1839, many Dan, ever ready to defy the dynasty, seized the opportunity to challenge Qing power and became the largest group of Chinese to collaborate with the British during and after the Opium War.⁷⁷

Some Dan, notably Lo Aqui (Lu Yagui) and Kwok Acheong (Guo Yaxiang), continued to act as collaborators after the cession of Hong Kong and became prominent figures in local society. Kwok served as an agent for the Peninsular and Oriental Steamship Company before establishing his own steam fleet. As a prominent figure in the Chinese community, Kwok often advised the colonial government of Hong Kong on matters regarding the island's Chinese inhabitants.⁷⁸ Lo Aqui also became a leader among the Hong Kong Chinese, helping to establish

⁷⁵ Zheng Guangnan, *Zhongguo haidao shi* [A History of Chinese Pirates] (Shanghai: Huadong ligong daxue chubanshe, 1998), 48-50, 71-76, 286- 292, 302-303. Murray, 'Guangdong', 148. Robert J. Antony, *Like Froth Floating on the Sea: The World of Pirates and Seafarers in Late Imperial South China* (Berkeley, CA: University of California at Berkeley Institute of East Asian Studies, 2003), 48-53.

⁷⁶ Zheng, *Zhongguo*, 432.

⁷⁷ Law Wing Sang, *Collaborative Colonial Power: The Making of the Hong Kong Chinese* (Hong Kong: Hong Kong University Press, 2009), 15. John M. Carroll, *Edge of Empires: Chinese Elites and British Colonials in Hong Kong* (Hong Kong: Hong Kong University Press, 2007; originally published by Harvard University Press, 2005), 21-23.

⁷⁸ Jung-fang Tsai, *Hong Kong in Chinese History: Community and Social Unrest in the British Colony, 1842-1913* (New York: Columbia University Press, 1993), 45-48. Carroll, *Edge of Empires*, 33-35.

the Man Mo (Wenwu) Temple, which became a centre of Chinese religious and social life in the colony. Within a decade of the cession of Hong Kong, Lo became the largest Chinese landholder in Hong Kong, controlling an area known to the British as the Lower Bazaar. In 1845, along with Fung Attai (Feng Yadi), he took control of the opium farm, a lucrative monopoly sold by the colonial government as a means of generating revenue. Despite these contributions to the development of Hong Kong, Lo is perhaps better remembered for his criminality. He allegedly bribed Chief Magistrate William Caine to turn a blind eye to criminal activities, including pirate protection societies, in the Lower Bazaar. With control of the opium monopoly, Lo and Fung raised the price to render Hong Kong's market uncompetitive while they continued to smuggle opium through Cumsingmoon (Jinxingmen) beyond Hong Kong's jurisdiction. Furthermore, Lo used the revenue cruiser intended to enforce the opium monopoly to disrupt harbour traffic and engage in piracy. Despite these crimes and being labelled by the Qing as the foremost among the *hanjian* (treacherous Chinese) spies and collaborators, Lo nonetheless purchased an official degree and joined the ranks of the Qing gentry.⁷⁹

In many ways, Lo Aqiu personifies the changes to Hong Kong's hierarchy resulting from the establishment of a British presence on the island. The removal of Qing authority presented the formerly marginalised Dan and other peripheral Chinese with new opportunities to gain wealth. While some of these paths to prosperity were legal, many occurred in the interstices of the new political order in Hong Kong and its environs. The disruption caused by the Opium War and the establishment of a British presence on Hong Kong made it easy for many criminals to evade punishment by taking advantage of the limits of Qing and British authority in the waters of the Canton Delta. Even before the first Opium War, Qing officials struggled to assert their control beyond the inner seas. Lack of coordination between regional naval commands and the absence of a unified maritime policy meant that Qing naval strategy focused on coastal

⁷⁹ Munn, *Anglo-China*, 73-78, 102. Idem, 'Lo Aqiu' in *Dictionary of Hong Kong Biography*, ed. May Holdsworth and Christopher Munn (Hong Kong: Hong Kong University Press, 2012), 274-275. Memorial by Lü Xianji, Daoguang (DG) reign, 22nd year/5th month/*renshen* (2 July 1842), *Chouban yiwu shimo* [Complete Records of Managing Barbarian Affairs, *YWSM*] DG, 52 *juan*/3, ed. Wenqing, Jiazhen, Baoyun, et al. in *Xuxiu siku quanshu* [Complete Books of the Four Storehouses, revised edition, *SKQS*], vol. 415 (Shanghai: Shanghai guji chubanshe, 1995).

defence rather than building an effective fleet, which limited the Qing navy's ability to police the surrounding seas. The British maritime invasion further weakened the tenuous grasp of Qing power over the seas off the South China coast. The destruction of the Qing navy and coastal defences in the south during the war severely disrupted the Qing ability to maintain order over Hong Kong's surrounding waters and created a political vacuum that allowed piracy and maritime crime to flourish.⁸⁰ Into this chaos, British colonial and naval officers attempted to impose their own imperial hydrarchy.

British Imperial Hydrarchy around Hong Kong

Having affirmed their sovereignty over the island of Hong Kong, British authorities sought to extend that control over the surrounding hydrarchy. The cession of the 'island and harbor' of Hong Kong in the Convention of Chuenpi suggests that Elliot negotiated the establishment of British control over what later became known as Victoria Harbour.⁸¹ Elliot seemed to affirm British control over Victoria Harbour when on 30 April 1841 he appointed William Caine as chief magistrate of the island and gave him the authority to 'exercise authority according to the laws, customs and usages of China, as near as may be (every description of torture excepted), for the preservation of the peace, and the protection of life and property, over all the native inhabitants in the said island and the harbours thereof'.⁸² Elliot further reinforced British authority over Victoria Harbour by appointing Lieutenant William Pedder, who previously served as the first officer of HEICS *Nemesis*, as Hong Kong's first harbour master and marine magistrate. Pedder issued Hong Kong's first port regulations the same day as his appointment. Enforcement of these regulations fell to the Royal Navy.⁸³

⁸⁰ Murray, 'Guangdong', 158-161.

⁸¹ Early English sources refer to the body of water now known as Victoria Harbour as 'Hongkong Harbour'. With the establishment of the town of Victoria on the north face of Hong Kong Island, the harbour was sometimes referred to as 'the Harbour of Victoria' (e.g. in 'Minutes for the Executive Council', 28 February 1844, CO Hong Kong, Sessional Papers [131]/1, 12), which seems to have been a predecessor to the current moniker.

⁸² *Canton Press*, vol. 6, no. 32, 8 May 1841.

⁸³ Iain Ward, *Sui Geng: The Hong Kong Marine Police, 1841-1950* (Hong Kong: Hong Kong University Press, 1991), 3-5. Kathleen Harland, *The Royal Navy in Hong Kong, 1841-1980* (Hong Kong: The Royal Navy, 1980), 102.

Though Article III of the Treaty of Nanking makes no mention of Victoria Harbour, Pottinger and Davis nonetheless exercised a *de facto* sovereignty over that body of water. Pottinger confirmed Elliot's appointment of Pedder as the 'Marine Magistrate of the Island of Hong Kong and its dependencies' with authority over 'all persons... resorting or abiding in the Harbours of said Island.' Where Caine was initially expected to enforce Chinese law, however, Pedder was authorised 'to exercise Magisterial and police authority... according to the customs and usages of general British Police Law.'⁸⁴ Caine and Pedder's authority over Victoria Harbour marks a unilateral declaration of jurisdiction over an area initially under the authority of the colonel of Dapeng, often referred to as the 'Taepang Commandant' in British sources.⁸⁵ Contentions as well as cooperation between the Hong Kong magistrates and the colonel and his civilian counterpart, the Kowloon deputy magistrate, discussed in the following chapter, persisted to the end of the century. Despite the repudiation of the Convention of Chuenpi and Elliot's dismissal, Pottinger confirmed Caine and Pedder's authority over Victoria Harbour after the Treaty of Nanking.⁸⁶ Even before the treaty, British authorities were already concerned with precluding Qing activity in Victoria Harbour. Worried that Qing agents might infringe on British sovereignty over the harbour, Aberdeen advised Pottinger to warn the Chinese against 'erecting on the point of land opposite to Hong Kong any works which might prove inconvenient to the secure occupation of the Island' or that 'could in any degree affect the security of the anchorage at Hong Kong, or give them a command of the channel between the Island and the Main land'.⁸⁷ British control of Victoria Harbour prevented Qing officials from attempting to exercise control over Victoria Harbour from Kowloon.

Davis further consolidated British control over Victoria Harbour, and declared to Rear-Admiral Thomas Cochrane, commander-in-chief of the East Indies and China Station, that the

⁸⁴ 'Marine Magistrate's Warrant' quoted in Ward, *Sui Geng*, 4.

⁸⁵ For an example of the usage of 'commandant', see Caine to Commandant of Taepang Station, 4 July 1844, Colonial Office Records (CO) Hong Kong, Original Correspondence (129)/6, 371-372, The National Archives (TNA), Kew, UK.

⁸⁶ Ward, *Sui Geng*, 2-3. Munn, 'Criminal Trial', 47-48.

⁸⁷ Aberdeen to Pottinger, 4 January 1843, CO 129/3, 64-66.

Royal Navy was 'justified in pursuing a very stringent and summary course within the limits of the Harbour of Hongkong'. Davis demarcated the limits of the harbour as lying 'between Lye-mun [Lei Yue Mun, Liyumen] pass on the East, and a straight line drawn from Green Island to Stone Cutter's Island on the West, or perhaps a little beyond'.⁸⁸ In giving the Royal Navy free reign in Victoria Harbour, Davis effectively occupied the area with the Queen's ships. Headquartered at Hong Kong, the Royal Navy acted as an occupying garrison enforcing British control over the harbour. Victoria Harbour's relation to Hong Kong became akin to that of the English Channel to Britain: a maritime zone under land-based state sovereignty. Colonial authorities seemed to understand Charles Hedges's statement in 1696 that the 'king of England hath... an empire and sovereignty over the British seas [i.e. the English Channel]' as equally true of Queen Victoria and her namesake harbour in 1844.⁸⁹ British officers could thus rule the hydrarchy in Victoria Harbour as an extension of the territory of Hong Kong with the magistracy, the marine police, and the Royal Navy all asserting authority over persons in the harbour. This degree of control would prove impossible south of Hong Kong as the southern coast faced the vastness of the South China Sea where territorial demarcation proved impossible.

Despite the inability to effectively occupy the harbours and seas south of Hong Kong, Davis nonetheless remained adamant that Britain held sovereignty over them. On 20 November 1844, a British magistrate discovered 'a Chinese Officer named Chingtung [Zheng Dong], and attached to the Office of the Singan Hien [Xin'an xian, the magistrate of Xin'an]' attempting to sell passes to the 'boat people' inhabiting the southern coast of Hong Kong. Davis considered this 'a violation of territorial sovereignty... [a]s these persons must pay taxes to us [i.e. the British] and also receive passes from us'.⁹⁰ Qiying pointed out that 'fishing boats of the coast, when going

⁸⁸ Davis to Cochrane, 29 July 1844, Admiralty Records (ADM) China Station Correspondence (125)/145, 61, TNA.

⁸⁹ Charles Hedges in *Rex v. Dawson* (1696), quoted in Rubin, *Law of Piracy*, 92. Even as Britain gave up claims to the Channel Salute in 1805 in the interests of *mare liberum*, it continued to claim control over sea space elsewhere, like Victoria Harbour. Paul Kennedy, *The Rise and Fall of British Naval Mastery* (London: Penguin, 2017; originally published 1976), 163-164. Anand, *Origin and Development*, 85, 109.

⁹⁰ Davis to Qiying, 22 November 1844, CO 129/7, 264-265.

out to the ocean to fish, customarily seek licences from local officials', which helped Qing officials determine whether fisherfolk were 'good or evil'. Such passes however should be issued from the district capital and Qiyong admitted there was 'something amiss' in Zheng Dong's attempt to sell them at Hong Kong.⁹¹ Qiyong implied that the Qing still held authority over Chinese at sea. Citing the extraterritorial jurisdiction the British held over their subjects in China, he claimed the same rights in the case of Zheng Dong. Noting that the treaty stipulated that 'in cases involving English and Chinese, the English are under England's jurisdiction, and the Chinese are to be investigated and tried in China', Qiyong believed Zheng Dong was under Qing jurisdiction. He thus suggested that as 'the clerk is Chinese, he should be investigated by Chinese officials'. If Zheng 'inappropriately exercised power at Hong Kong, then he is in the wrong and should be punished according to the laws of China. If he acted under official orders, local officials are responsible for the crime'. Qiyong thus requested that British officials hand Zheng over to the Kowloon authorities.⁹² Davis refused to release Zheng until Qiyong confirmed that 'he was not *authorized* to come over to HongKong' and that only 'Officers of my Sovereign, the Queen of Great Britain, can by the Law of England exercise authority in HongKong'.⁹³ It is unclear whether Qiyong understood this to mean that the British had jurisdiction over the seas around Hong Kong and those inhabiting them, as he still understood Zheng's actions as a violation of British authority at Hong Kong rather than its surrounding waters. Davis, however, saw the admission as 'the successful result of my zealous determination to establish Her Majesty's sovereignty over the whole of this island' which included the 'boat people' (likely the Dan) of the surrounding hydrarchy.⁹⁴

The Hong Kong government implemented its authority over the Chinese, including the Dan, in part through a system of registration. As early as April 1843, Pottinger had already suggested creating 'a Registry Office, and to allow no person to reside on this Island who shall not be

⁹¹ Qiyong to Davis, DG 24/10/15 (24 November 1844), FO Chinese Secretary's Office, Various Embassies and Consulates, China: General Correspondence (682)/1977/154, TNA.

⁹² Qiyong to Davis, undated, FO 682/1977/159b.

⁹³ Davis to Qiyong, 6 December 1844, CO 129/7, 270-271. Emphasis in original

⁹⁴ Davis to Stanley, 13 December 1844, CO 129/7, 258-260.

registered in such an office'.⁹⁵ The following June, he explained the system to Qiying, stating that 'all persons registered are to be considered amenable to the Police Laws of the Island so long as they remain.' Registration became a means for the Chinese in Hong Kong to become British subjects. As Pottinger further explained:

The Island of Hongkong having been ceded in Sovereignty to The Queen of England who is to make such Laws and Regulations as Her Majesty may please to enact, the option will be given to all Chinese on the Island whether to quit the Island, being paid for their Lands and houses, or to remain as subjects of the British Crown, and as such entitled to British Protection, and subject to British Laws.⁹⁶

Davis would implement Pottinger's proposals by passing the first registration ordinance in October 1844. Though it met with opposition and was amended to exclude Europeans, the clauses for the registration of Chinese remained after protests by both Europeans and Chinese in Hong Kong. The European community opposed registration in general, seeing it as an infringement of liberty. The Chinese resented the capitulation tax, which was intended to be \$1 per year but was mistranslated by Karl Gützlaff, a Pomeranian missionary and Chinese secretary for the colonial government, in the Chinese version to read \$1 per month.⁹⁷ Registration of the Chinese included the Dan and members of Hong Kong's hierarchy. Samuel Turner Fearon, appointed the first Registrar General in 1845, reported that in addition to issuing 9,900 certificates of registration, he also 'registered 383 boats, the crews of which amount to 2,150, making a total of 12,050 persons who have been registered under the Ordinance' and thus under British sovereignty.⁹⁸

While registered Chinese became British subjects, most Chinese who came to Hong Kong before the 1850s were transient. The island's original inhabitants and Chinese who became

⁹⁵ Pottinger to Johnston, Caine, and Pedder, 15 April 1843, CO 129/3, 262.

⁹⁶ 'Memorandum' in Pottinger to Qiying, 13 May 1843, CO 129/3, 359-360.

⁹⁷ Munn, *Anglo-China*, 126-130.

⁹⁸ Samuel Turner Fearon, 'Report', 24 June 1845, CO 129/12, 304-305. Fearon served as an interpreter during the Opium War and as the first registrar-general of Hong Kong. After his tenure in Hong Kong, he became the first professor of Chinese at King's College London, which became an important training centre for British colonial officials sent to the Far East in the nineteenth century. Uganda Sze Pui Kwan, 'Translation and the British Colonial Mission: The Career of Samuel Turner Fearon and the Establishment of Chinese Studies at King's College, London', *Journal of the Royal Asiatic Society, Series 3* 24, no. 4 (2014), 624.

British subjects became a minority among the Chinese in Hong Kong, many of whom merely sought temporary employment and a profit before returning to China. The predominance of male sojourners and low rate of female and family migration before the Taiping Rebellion testifies to the temporary nature of the presence of many Chinese on the island. The characteristic of transience also applied to the non-Chinese inhabitants of Hong Kong with colonial officials seeing Hong Kong as a temporary station while many merchants saw the colony in the same light as sojourning Qing subjects.⁹⁹ The floating population of Hong Kong came to be associated with crime and violence, particularly as crime remained rampant in the colony's early years. In his report on the implementation of registration, Fearon claimed that 'the shelter and protection afforded by the presence of the fleet soon made our shores the resort of outlaws, opium smugglers and indeed of all persons who having rendered themselves obnoxious to the Chinese laws, had the means of escaping hither'.¹⁰⁰ Fearon's accusations of criminality may have been directed at the Chinese, but the same could be said of much of the foreign community as well.¹⁰¹ The governor and Supreme Court held jurisdiction only over British subjects in Hong Kong and within one hundred miles of the coast of China. Article IX of the Supplementary Treaty allowed colonial officials to extradite the criminals described in Fearon's report to Qing courts. The criminals in Hong Kong's literal floating population, namely the Dan, remained problematic nonetheless. The Royal Navy and marine magistracy held control over Victoria Harbour through virtual possession but lacked authority over piracies committed by Chinese who were not British subjects, a substantial portion of the hydarchy around Hong Kong.

British authorities filled the gap in authority over maritime crime by non-British subjects with the establishment of a Vice-Admiralty Court in Hong Kong. In a letter of the Privy Council of 23 January 1846, Queen Victoria authorised the High Admiral of the United Kingdom to

⁹⁹ Tsai, *Hong Kong*, 22-23. Cai Rongfang [Jung-fang Tsai], *Xianggangren zhi Xianggangshi, 1841-1945* [The Hong Kong People's History of Hong Kong, 1841-1945] (Hong Kong: Oxford University Press, 2001), 27. Tsang, *Modern History*, 46. Carroll, *Edge of Empires*, 59-60.

¹⁰⁰ Fearon, 'Report', 24 June 1845, CO 129/12, 306.

¹⁰¹ Davis and Robert Morrison, the first Protestant missionary to China, both wrote about the unruliness of the British community at Canton before the Opium War. See Chen, 'Law, Empire, and Historiography', 42-44.

‘appoint a Vice Admiral Judge and other proper officers for a Court of Vice Admiralty in our said Island of Hong Kong’.¹⁰² The court, which extended British jurisdiction seaward, opened on 14 January 1847.¹⁰³ Whereas more than fifty years passed from the time the East India Company took possession of Prince of Wales Island (Penang) in 1786 to the establishment of a Vice-Admiralty court in the Straits Settlements in 1837, the same process took less than a decade in Hong Kong.¹⁰⁴ That a Vice-Admiralty Court in Hong Kong opened so soon after the establishment of a colony there attests to the problems presented by piracy and the eagerness of British authorities to gain control over the maritime space around the island. Rather than having to try cases of piracy at a court in the Straits Settlements, ships of the East Indies and China Station could deliver pirates for trial in Hong Kong. The proximity of the Vice-Admiralty Court in Hong Kong made ships more effective as vectors of British law at sea.¹⁰⁵ Admiralty jurisdiction, which included the right to try cases of piracy enabled British officials to exert authority over all criminals in Hong Kong’s hydrarchy, regardless of their nationality.

By 1847, British authorities had established their control over Hong Kong and had the means of extending it seaward. In addition to holding control over the whole of Victoria Harbour, British officials were able to impose their authority over the waters surrounding their island of sovereignty on Hong Kong. In refusing to engage in any legal posturing or to cede any extraterritorial jurisdiction to Qing officials over the Chinese in Hong Kong, the colonial government made itself the sole authority on the island. Through the registration ordinance, Chinese in Hong Kong became British subjects and thus completely under the rule of the extensive authority of the governor. The government of Hong Kong thus had full control of the island, including the coasts from which it could project this power and territorialise the

¹⁰² Charter of the Hong Kong Vice-Admiralty Court, 23 January 1846, ADM Letters Patent (5)/71, TNA.

¹⁰³ Fox, *British Admirals*, 40. The Vice-Admiralty Court was absorbed by the Supreme Court in 1850. Munn, ‘Criminal Trial’, 48.

¹⁰⁴ Alfred P. Rubin, *The International Personality of the Malay Peninsula: A Study of the International Law of Imperialism* (Penerbit: University of Malaya Press, 1974), 130.

¹⁰⁵ According to Lauren Benton, ships were ‘vectors of law thrusting into ocean space’. Benton, *Search for Sovereignty*, 112.

surrounding seas. This authority was achieved by the ships of the Royal Navy with the East Indies and China Station headquartered at Hong Kong. The Vice-Admiralty Court facilitated the conversion of the ships of the station into vectors of British maritime law in the China Seas. Empowered to suppress piracy through Hong Kong's courts, the marine police and Royal Navy could impose state control over the waters surrounding the British colony. Even with these legal mechanisms and a powerful fleet, however, British officers struggled to control Hong Kong's maritime population. To deal with the pervasive problem of piracy, they would need collaborators, not only in the form of Chinese supporting the colonial administration, but from Qing officials. From their island of sovereignty on Hong Kong, colonial authorities, with the support of the Royal Navy, would create an imperial hierarchy that could collaborate with that of Qing officials on the mainland.

Chapter 2

The Foundations of Collaborative Imperial Hydrarchy

If British authorities proved unable to exercise an effective control over the waters around Hong Kong, Qing officials were even less capable of exerting the powers of their maritime state over the Cantonese water world. The Qing encounters with Koxinga, the Tayson privateers, and the *ladrones* revealed that the hydrarchy of the China Seas often possessed better naval organisation, equipment, and skills than the state. The victories of British naval forces during the first Opium War further exposed the weakness and inefficiency of the Qing state at sea while also destroying much of the force upon which Qing officials relied to enforce their authority off the China coast, particularly in the Canton Delta. Just as the Qing state survived the threat from various waves of professional and political pirates, however, it would withstand, at least for the time being, the maritime menace of British Empire. Though threatened by the presence of the Royal Navy in China, Qing authorities, as this chapter argues, began to collaborate with British state representatives in China against piracy. After establishing a presence at Kowloon, Qing authorities realised that British power in Hong Kong complemented their authority. From Hong Kong and Kowloon, British and Qing officials cooperated to control a common foe.

In response to the colonisation of Hong Kong and its disruption of Qing maritime authority, Beijing established an outpost of state power at Kowloon on the mainland side of Victoria Harbour. Officials stationed at what would become the Kowloon Walled City helped enforce Qing maritime control and interacted with British agents to maintain order and uphold the stipulations of the treaties. British authorities' insistence on their colony of Hong Kong as an island of sovereignty proved problematic for Qing attempts to exercise authority in the surrounding waters. Hong Kong, easily accessible from Qing territory and under a separate, and often inefficient regime, became a haven for criminals and fugitives, including pirates. Neither the Qing authorities at Kowloon nor British colonial officials at Hong Kong could deal with piracy alone, and the two sides found their authority and capabilities complementary. A system

of cooperation against piracy thus began to emerge. This chapter will explore the foundations and development of a system of cooperation against piracy between Hong Kong and Kowloon.

The Qing and British empires made strange bedfellows, brought together by pirates on the South China coast who fulfilled the definition in the law of nations as *hostes humani generis*.¹ Qing and British authorities had different motives for suppressing piracy. For Qing officials, piracy caused disorder, which undermined their sovereignty and legitimacy. They were furthermore concerned that the pirates might assist or provoke British actions against the Qing state. Pirates also threatened trade, the *raison d'être* for the British presence in China. From Kowloon and Hong Kong Island, Qing and British agents devised means of suppressing piracy. British authority in the colony of Hong Kong found a rough analogue in the Kowloon authorities, whose post placed Qing authority on a firmer basis on the mainland side of the harbour and served as a point for the projection of state power seaward. Given that piracy proved a problem for British and Qing interests and that neither side had the capability to unilaterally suppress it, the common enemy of all mankind created grounds for a collaborative imperial hierarchy between the Hong Kong and Kowloon authorities over the waters in the region. This system of cooperation would be replicated elsewhere on the coast of South China.

'An Important Office on Our Maritime Frontier': The Making of the Kowloon Authorities

Qing officials were not passive as British authorities built an island of sovereignty at the heart of the Cantonese water world. While the colonial government established control over Hong Kong and concurrently it into surrounding waters, Qing authorities responded to the intrusion by bolstering their authority in the region, particularly at Kowloon. The Qing military presence here originated in 1668 with the construction of a signal station during the conflict with Koxinga's pirates. In 1810, local officials built a wooden fort in Kowloon with a garrison of fifty men. Even then, however, Kowloon was not considered a strategically important location.² The

¹ See Alfred P. Rubin, *Law of Piracy* (Newport, RI: Naval War College Press, 1988), 82-83.

² Xiao Guojian [Anthony Siu], *Jiulong chengzhai shilunji* [Studies on the Kowloon Walled City] (Hong Kong: Hin Chiu Institute, 1987), 27. Elizabeth Sinn, 'Kowloon Walled City: Its Origin and Early History', *Journal of the Hong Kong Branch of the Royal Asiatic Society* 27 (1987), 31.

situation changed on 7 July 1839 when a group of American sailors and British lascars murdered a Qing subject, Lin Weixi, on the peninsula. In accordance with the British stance towards Qing jurisdiction that had developed after the *Lady Hughes* incident, the British superintendent of trade, Captain Charles Elliot, refused to hand over any culprits to Chinese justice and instead tried the lascars in Hong Kong. Elliot invited Qing officials to send witnesses to the trial, but they refused, believing that the case ought to have been tried by a Chinese tribunal.³

Frustrated with British intransigence, Imperial Commissioner Lin Zexu sent the lieutenant-colonel (*canjiang*) of Dapeng, Lai Enjue, to the Kowloon fort to restore peace to the surrounding seas and cut off supplies to the British ships anchored in Victoria Harbour. The move proved prescient. Aggravated by the British refusal to extradite Lin Weixi's murderer, Commissioner Lin sent a Qing fleet to demand the rendition by force, culminating in the Battle of Chuenpi on 3 November 1839. The engagement marked the beginning of hostilities during the first Opium War. In retaliation, Lai's forces opened fire on the British ships in Victoria Harbour, forcing their withdrawal. Lai's actions against the British won him a promotion to the rank of colonel (*fujian*). The colonel of Dapeng, became the highest-ranking Qing military official to ever be stationed in the Hong Kong region. The relocation of the headquarters of the Dapeng colonel to Kowloon remained in place for the duration of the first Opium War and indeed to the end of the century.⁴ The post proved an important one for Qing China, particularly after the British occupation of Hong Kong.

Following the Convention of Chuenpi, Lai Enjue became the Qing representative whose post was closest to the new British colony of Hong Kong. As early as 28 January 1841, two days

³ Eitel, *Europe in China: The History of Hong Kong from the Beginning to the Year 1882* (London: Luzac & Company, 1895), 101. 3 & 4 Wil. IV c. 93 defines lascars as 'Asiatic Sailors... being Natives of the Territories under the Government of the *East India Company*'. *The Statutes of the United Kingdom of Great Britain and Ireland, 3 & 4 William IV. 1833* (London: His Majesty's Printers, 1833), 901-902.

⁴ Eitel, *Europe in China*, 108-109. Xiao, *Jiulong*, 55. Rudolph Kröne, 'A Notice of the Sanon [Xin'an] District, Read before the [China Branch of the Royal Asiatic] Society, February 24th, 1858', *Journal of the Royal Asiatic Society Hong Kong Branch* 7 (1967), 118. A *fujian* was the second highest-ranking officer commanding a battalion of the Green Standard Army. Robert Antony, *Unruly People: Crime, Community, and State in Late Imperial South China* (Hong Kong: Hong Kong University Press, 2016), 64-65.

after British forces formally took possession of Hong Kong, Rear-Admiral Gordon Bremer wrote to Lai asking him to withdraw his troops from Hong Kong and not impede fishermen and merchants from going there.⁵ Despite these demands, Lai remained at the Kowloon fort. The proximity of Lai's headquarters to Hong Kong allowed him to observe British activity there and provide his superiors with intelligence. In June 1841 he reported that despite the cession of Xianggang, a village on the southwest of what was later called Hong Kong Island, it was clear that British agents intended to annex the entire island and were developing Qundailu on the north of the island. He further reported that British officials had appointed a 'false district magistrate' tasked with catching thieves and prohibiting gambling and that British authority in Hong Kong was bolstered by the assistance of 'treacherous Chinese'.⁶ Lai's ability to gather intelligence about British activity exceeded mere observation of developments in Hong Kong and the movements of warships in surrounding waters. He was also able to furnish information about developments elsewhere in the British Empire, reporting rumours of the withdrawal of British ships from Guangdong to Meng'ala (Bengal), which his superiors attributed to setbacks at Zhilalaba (Jalalabad) during the contemporaneous first Anglo-Afghan War.⁷ Lai Enjue thus became an important source of information contributing to an emerging Qing understanding of British India and its threat to the Qing Empire.⁸

Lai's post entailed more than merely observing and gathering intelligence regarding British activity. He also interacted with British officials. Though Lai denied the legitimacy of British

⁵ Bremer to Lai, 28 January 1841, Chinese translator unknown, Foreign Office Records (FO) Chinese Secretary's Office, Various Embassies and Consulates, China: General Correspondence (682)/1974/27, TNA. Memorial by Yiliang, Daoguang reign (DG) 21st year/2nd month/*xinyou* day (26 February 1841), *Chouban yizhu shimo* [Complete Records of Managing Barbarian Affairs, *YWSM*] DG 23 *juan*/2-3, ed. Wenqing, Jiazhen, Baoyun, et al. in *Xuxiu siku quanshu* [Complete Books of the Four Storehouses, revised edition, *SKQS*], vol. 414 (Shanghai: Shanghai guji chubanshe, 1995).

⁶ Imperial Edict, DG 21/6/*dingyou* (1 August 1841), *YWSM*, DG 30/26-27 in *SKQS*, vol. 414. 'Xianggang' is the pinyin for 'Hong Kong', which became the moniker used by the British for the island ceded in the Convention of Chuenpi and would eventually be adopted for the entire colony after its extensions in 1860 and 1898. Qundailu was the Chinese name for the settlement that would eventually become Victoria, now Central.

⁷ Memorial by Yishan, Qigong, and Liang Baochang, DG 22/5/*jiazi* (24 June 1842), *YWSM* DG 51/1-2 in *SKQS*, vol. 415.

⁸ Matthew M. Mosca, *From Frontier Policy to Foreign Policy: The Question of India and the Transformation of Geopolitics in Qing China* (Stanford: Stanford University Press, 2013), 266-267

authority in Hong Kong, authorities there nonetheless attempted to turn the colony into an island of British sovereignty, but their control over the Chinese in Hong Kong remained incomplete. Despite Elliot's claim that all Chinese in Hong Kong had become British subjects and his legal posturing to co-opt local leaders into colonial governance, the government proved unable to deal with criminals among the Chinese population of the new colony. During 'the year 1842/1843' British officials in Hong Kong sent 'certain Criminals' to the 'Chinese Officer Commanding at Cowloon'. The governor believed that the arrangement was 'satisfactory and perhaps shows as much good will [sic] and zeal as could be expected from officers who have their own District Duties to look after'.⁹ Though Lai Enjue may have rejected British authority in Hong Kong, he nonetheless willingly accepted the rendition of criminals from the 'false district magistrates' across the harbour. As the Treaty of Nanking that ended the first Opium War and formally ceded Hong Kong to Britain was not signed until 29 August 1842 and not officially ratified until the following June, Lai may have accepted the extradition of these criminals when China and Britain were still at war. In times of peace, Lai and his forces would have been expected to act as a local constabulary. They would have had the task of patrolling the surrounding areas and reporting any crimes to superiors and assisting in making arrests. While the Qing military often shouldered the responsibility for dealing with serious cases of banditry, including piracy, when ten or more individuals were involved, less severe crimes as well as general police authority would have instead been a task for civil officials.¹⁰

Before the British government decided to completely exclude any Qing jurisdiction over the Chinese population of Hong Kong, Governor-General Qiying asserted that Chinese criminals in Hong Kong should 'be sent to the Chinese Mandarins resident at Kowlung [Kowloon] for trial and punishment'. Accordingly, he 'resolved to send a Seunken [*xunjian* or deputy magistrate], or inferior district officer, to reside at Kowlung, for the purpose of

⁹ Woosnam to Caine, 24 April 1844, Correspondence Received by the Chief Police Magistrate from the Colonial Secretary (HKRS 100)-1, 46, Hong Kong Public Records Office (HKPRO).

¹⁰ Antony, *Unruly People*, 57, 64-67.

controlling the Chinese, and investigating the crimes they are accused of on the nearest spot'.¹¹

Pottinger proved amenable to this move responding that:

I quite approve of Your Excellencies sending a seunkeen or inferior District officer for the purpose of investigating the crimes and settling the disputes of the Chinese people residing on Hong Kong, and I will instruct it to be notified that all Chinese persons having complaints against Chinese may apply to him if they like. When foreigners are parties in disputes of course the British Officers must in all cases investigate, and where the Chinese are found in the wrong, they will be sent with the evidence to Kowlong to be punished according to the Laws of the Empire.¹²

Though, as mentioned in the previous chapter, the law lords rejected this arrangement, the Qing government nonetheless sent officials to Kowloon. Emperor Daoguang approved of Qiying's suggestion that a deputy magistrate be stationed in Kowloon. The emperor ordered the personnel of the deputy magistracy of Guanfu in Xin'an to 'move their residence to Kowloon and change the office into the Kowloon deputy magistracy'. Daoguang further approved the appointment of Xu Wenshen as an experimental deputy magistrate for three years. As the deputy magistrate at the new yamen in Kowloon, Xu would 'have no responsibility for collecting taxes, but would observe entry and exit [of ships] and be in charge of [maintaining] mutual peace between Chinese and barbarians'.¹³

Deputy magistrates represented the lowest level of Qing official administration. The Qing state saw such lower-ranking officials as aides to county and district magistrates. In addition to shouldering the task of local administration, deputy magistrates were expected to handle taxation, census registration, and law enforcement on behalf of the magistrate. While the number of counties remained relatively constant throughout the Qing dynasty, the number of sub-county posts fluctuated. The creation and relocation of sub-county posts became a means of extending the reach of the Qing state to more local levels.¹⁴ The relocation of the Guanfu

¹¹ 'Extract of a letter from the Imperial Commissioners to Sir Henry Pottinger', [day missing], February 1843, translator unknown, CO 129/3, 223. 'Seunkeen' is the Cantonese pronunciation of *xunjian*, or 'deputy magistrate'.

¹² 'Extract of a Letter from Sir Henry Pottinger to the Imperial Commissioners', 20 February 1843, CO 129/3, 223-224.

¹³ Edict to the Grand Council, DG 23/10/*xinyou* (13 December 1843), *YWSM* DG70/18-19 in *SKQS*, vol. 416.

¹⁴ Li Keqin, 'Qingdai Guangzhoufu shu xunjian yanjiu [A Study of the Deputy Magistracies in the Guangzhou Prefecture during the Qing Dynasty]', *Guangdong shi zhi* 3 (1994), 45. Robert J. Antony,

deputy magistracy to Kowloon was a Qing attempt to establish civil authority close to the British colony of Hong Kong. While such a move may have been a traditional response to a novel problem, the Kowloon deputy magistrate's yamen was unique from other *xunjian* in Guangdong. Most sub-county posts were established in market areas along significant trade routes, but the Kowloon deputy magistracy sat opposite to what Lord Palmerston infamously considered 'a barren Island with Hardly a House upon it'.¹⁵ Even after Britain formally took possession of Hong Kong and Qing officials had sent Xu Wenshen to Kowloon, the island remained a 'commercial Dépôt' and had not yet become a 'Mart'.¹⁶ In a list of the 'principal Trading-places' in the Xin'an district, made by Rudolph Kröne of the Rhenish Missionary Society in 1858, none are in Kowloon.¹⁷ In other circumstances, the commercial insignificance of Kowloon would likely not have warranted the post of a deputy magistrate.

The duties of the deputy magistrate at Kowloon included 'inspecting licences for entering and exiting' Hong Kong. All ships going to Hong Kong were expected to present their licences to the Kowloon deputy magistrate who would ensure that any merchant going there had only come from one of the treaty ports. While many deputy magistrates would have been tasked with monitoring shipping, only the Kowloon deputy magistrate had orders to do so 'along with the English'. In his interactions with British officials in inspecting shipping, the deputy magistrate had the potential to become an important mediator between the Qing and British empires. The significance of the Kowloon deputy magistrate in Anglo-Qing relations allowed him to transcend the characterisation of lower-ranking members of the Qing bureaucracy as 'trifling officials' (*weiyuan*), a fact Emperor Daoguang recognised when he presciently declared that the deputy magistrate's yamen in Kowloon would become 'an important office on our maritime

'Subcounty Officials, the State, and Local Communities in Guangdong Province, 1644-1860' in Robert J. Antony and Jane Kate Leonard, ed. *Dragons, Tigers, and Dogs: Qing Crisis Management and the Boundaries of State Power in Late Imperial China* (Ithaca, NY: East Asia Program, Cornell University Press, 2002), 30-34.

¹⁵ 'Lord Palmerston to Captain Elliot, R.N.', 21 April 1841, in Appendix G of Hosea Ballou Morse, *The International Relations of the Chinese Empire*. Vol 1, *The Period of Conflict, 1834-1860* (London: Longmans, Green, and Co., 1910), 642.

¹⁶ Davis to Stanley, 21 December 1843, CO 129/4, 276.

¹⁷ See Kröne, 'A Notice', 123.

frontier'.¹⁸ That the deputy magistrate was stationed next to the colonel of Dapeng further enhanced the importance of the position. Military posts in Qing-era Guangdong were often located next to yamens, allowing the military to provide additional support for civil officials charged with maintaining peace and order.¹⁹ The stationing of the Kowloon deputy magistracy next to the highest military authority in the district reflected the significance of the office.

The Dapeng colonel and the Kowloon deputy magistrate, known collectively in British sources as 'the Cowloon authorities', played an important role in Anglo-Qing relations at a local level.²⁰ Their proximity to Hong Kong meant that they interacted frequently with Hong Kong officials and were affected by developments across the harbour. After reporting that 'when there are disturbances in Hong Kong, they echo through Mount Jiulong [i.e. Kowloon]' the colonel of Dapeng and the deputy magistrate of Kowloon proposed making new defence arrangements. Despite the sudden increased importance of Kowloon, the Kowloon authorities complained that their post was 'garrisoned by low-ranking soldiers who are incapable of thwarting any threat'. Noting Kowloon's dire situation from poor defences and there being 'no yamen or barracks' there, Qiying suggested to the emperor that:

We should increase our attentions to defence and expand [the wooden Kowloon fort into] a walled city made out of brick, surrounding it with many guns. Within, we should build a yamen and barracks. This is not only so that troops can be stationed and drilled to increase our prestige; as the walled city would be close to the barbarian den, its resources might be used to check barbarian activities. It seems this would also greatly benefit maritime defence.

Citing the example of the walled city at Qianshan erected in response to the Portuguese settlement at Macau, Qiying concluded that 'Kowloon's proximity to Hong Kong is equivalent to Qianshan's closeness to Macau, so it is exceedingly important that we build a walled city to facilitate defence'.²¹ The construction of the Kowloon Walled City was finished the following year. It was one of only four walled cities in Xin'an District. Considering that the deputy

¹⁸ Edict to the Grand Council, DG 23/10/*xinyou* (13 December 1843), *YWSM* DG70/18-19 in *SKQS*, vol. 416. Antony, 'Subcounty Officials', 27, 37.

¹⁹ Antony, *Unruly People*, 68.

²⁰ The earliest use I have been able to find of this phrase is late 1844, in Qiying to Davis, undated, received 6 December 1844, translated by Gutzlaff, CO 129/7, 269.

²¹ Memorial by Qiying, DG 26/6/*gengwu* (8 August 1846), *YWSM*, DG 76/3-4 in *SKQS*, vol. 416.

magistracy of Guanfu, which was relocated to Kowloon, was based in a rented civilian residence, the construction of a yamen for the Kowloon deputy magistrate within a walled city reveals the increased significance Qing authorities gave to the post.²² The Qing government saw low-ranking bureaucrats as ‘officials close to the people’ and was aware that such officials were the main symbols of imperial authority for most of the empire’s subjects.²³ Qing authorities would have understood the significance of the imposing cannon and crenulations of the Kowloon Walled City and the effects it would have on surrounding inhabitants, including those of British Hong Kong. The extension of the Qing state via a deputy magistrate backed by a substantial military force and stationed in an impressive fortress, however, had a limited effect on the prevalence of crime in the region.

Limits of the Qing and British Imperial Hydrarchies in Guangdong Waters

British Disruption to Qing Imperial Hydrarchy

The first Opium War created chaos in the Pearl River Delta. The introduction of British as well as non-Cantonese Qing forces into the region during the war produced a xenophobic response from local gentry and villagers. As a result, local leaders mobilised militia against the British aggressors, but sought to keep such forces active to deal with the social unrest caused by the disruption of the British invasion. Many of the militiamen came from or later joined secret societies and became bandits and outlaws.²⁴ The increase in social unrest and banditry may have been only part of a broader trend in the breakdown of Qing order in South China, which began in the late eighteenth century. Demographic, economic, and ecological pressures resulted in increased lawlessness, which predated, but may have been exacerbated by, the war.²⁵ Under such conditions, piracy became particularly problematic as it not only affected Qing subjects,

²² Lu Jin, *Jiulong chengzhai shihua* [A History of the Kowloon Walled City] (Hong Kong: Joint Publishing, 1988), 34. Kröne, ‘Notice’, 115. Li, ‘Qingdai’, 45.

²³ Antony, ‘Subcounty Officials’, 38-39.

²⁴ Frederic Wakeman Jr., *Strangers at the Gate: Social Disorder in South China, 1839-1861* (Berkeley: University of California Press, 1966), 52-63, 122.

²⁵ Antony, *Unruly People*, 212, 234.

but also threatened British interests, which could be upheld by the naval superiority demonstrated during the first Opium War. Qing officials thus had a powerful motivation to suppress piracy; their attempts to do so revealed some of the limits of Qing imperial hierarchy in the waters of Guangdong.

Zhang Bao and Zheng Yi Sao's surrender in 1810 ended the threat to Qing authority from large-scale, professional piracy for a time. Piracy nonetheless continued to be a problem not least from Qing officials' failure to rehabilitate pacified pirates, many of whom returned to criminal activity. River banditry became such an issue immediately after the disbanding of the South China pirate confederation that a sub-statute permitting summary execution of bandits was approved for Guangdong the year after Zhang surrendered. The hiring of Dan 'water braves' to resist the Royal Navy during the first Opium War and their subsequent demobilisation after the peace contributed to an increase of piracy in Guangdong after the signing of the Treaty of Nanking.²⁶ Emperor Daoguang's lament in 1833 that 'the navy is a nihility' and that 'cases of piracy are perpetually occurring, *and even barbarian barks anchor in our inner seas*' seemed eerily predictive of the situation a decade later.²⁷ By mid-1843, even British observers were aware that 'reports of Piracy among the Chinese have become more frequent'.²⁸ Though the nihility of the Qing navy and the prevalence of piracy were no doubt brought about in part by the Royal Navy's destruction of much of the Qing fleet and coastal defences in Guangdong, British naval officers were initially reluctant to shoulder the responsibility of suppressing piracy. When Chinese fishermen requested that Captain Henry Chads of HMS *Cambrian* provide protection against pirates, he responded that 'all applications for assistance to suppress piracy must come from the Chinese Government authorities and even then I cannot act without their personal

²⁶ Ibid, 205-206. Wakeman, *Strangers at the Gate*, 25. Governor John Davis believed 'it is clear that the Chinese junks and boats retain the licences to carry arms which were granted them during the war with England, and pervert the same to piratical purposes'. Davis to Cochrane, 25 January 1845, Admiralty Records (ADM) China Station Correspondence (125)/145, 40, TNA.

²⁷ *Peking Gazette*, 29 October 1833, quoted in *Chinese Repository*, vol 2., No. 9, January 1834, 421. Emphasis in original.

²⁸ Chads to Parker, 1 July 1843, CO 129/4, 30.

cooperation'.²⁹ British naval officers initially expected Qing officials to carry the onus of suppressing piracy in the Chinese waters.

When pressured by British officers to take stronger actions against pirates, Qing officials initially resorted to similar tactics to those that proved ineffective in dealing with the ladrones. In response to Governor Pottinger's suggestion that Britain and China cooperate in suppressing piracy, Guangdong Governor Qigong sent 'the military representative responsible for the garrison from Kowloon to Nan'ao, Colonel Lai [Enjue]' to Hong Kong.³⁰ Lai reported that he had sent letters to various naval commanders to 'cooperate with the commanders of the three inner river routes' to cruise against pirates. He also stated he would request that the magistrate of Xiangshan, the district on the western side of the Pearl River Delta opposite Xin'an, to order Zhong Changfeng, a naval commander, to sail a fleet to Dapeng. Together, he and Zhong would make an expedition to the 'outer seas' to suppress piracy. Notably, Lai stated the expedition 'will not distinguish between maritime borders' and that two interpreters would accompany this expedition, hinting at a willingness to cooperate with British naval forces.³¹ Lai's suggestions were reminiscent of the strategy of 'sea war' that Qing officials had adopted against the Tayson privateers in the late eighteenth century. While Lai and Zhong's expedition could transgress maritime boundaries, a division between the outer seas and inner rivers and their respective commanders, which precluded a coherent and coordinated overall naval strategy, seems to have persisted. In short, Lai's proposed strategies for suppressing piracy failed to account for many of the shortcomings of Qing tactics against piracy half a century earlier.³²

Despite Lai's enthusiasm for an expedition to the outer seas to suppress piracy, archival evidence suggests that most Qing naval engagement with pirates occurred relatively close to

²⁹ Chads to Gutzlaff, 16 June 1843, CO 129/4, 34. For the fishermen's petition for protection see Gutzlaff to Chads, 16 June 1843, CO 129/4, 33.

³⁰ Qigong to Pottinger, DG 23/2/13 (13 March 1843), FO 682/1976/55.

³¹ Lai Enjue to Pottinger, DG 22/1/24 (February 1843), FO 682/1976/49.

³² Dian Murray, *Pirates of the South China Coast, 1790-1810* (Stanford: Stanford University Press, 1987), 40-48. idem, 'Guangdong de shui shang shijie: ta de shengtai he jingji [The Cantonese Water World: Its Ecology and Economy]', trans. Zhang Bincun, in *Zhongguo haiyang fazhan shi lunwen ji* [Essays on the History of Chinese Maritime Development], vol. 7, no. 1, ed. Tang Xiyong (Taipei: Academia Sinica, 1999), 157-158.

land. In reports on piracy in the Guangdong provincial archives before 1858, the seas or rivers in which the pirates are engaged or captured are almost always reported as within the jurisdiction of a particular district on land. Chinese naval forces seemed reluctant to stray any significant distance from the coast. Lai may have been exceptional in preferring to engage pirates in the outer seas; he was promoted to the highest naval authority in the province for allegedly leading 40 ships and capturing 438 pirates in 1844. His successors as colonel of Dapeng did not share his enthusiasm for naval actions. The construction of the Kowloon Walled City reveals the emphasis Qing officials placed on maritime defence rather than offensive naval strategy. That Kröne was unable to ‘ascertain how many war-junks the Hip-toi [i.e. commandant at Kowloon] has under his command at the various stations of the district’ suggests that Lai’s successors did not possess a large naval force. The ‘Mandarin at Fuk-wing [Fuyong]’, the only other deputy magistrate in the Xin’an district, could not even afford the upkeep of a single ‘war-junk’, further suggesting a lack of Qing naval capacity. In fact, desperate for revenue, the Fuyong deputy magistrate hired out his junk ‘for mercantile purposes’, but ‘the hirers... converted it into a pirate boat’, further exacerbating the problem of piracy.³³ The apparent dearth of naval vessels contrasted with the fortifications of the Kowloon Walled City shows that the colonels of Dapeng preferred the protection of a brick fortress over the wooden walls of war junks.

The Kowloon authorities’ preference for coastal fortifications over warships may not have been unfounded. Qing naval forces often proved inferior to those of pirates. On multiple occasions, pirates succeeded in capturing various types of Qing warships. In May 1849, after hearing that a patrol boat had been captured by pirates, Guo Chaofan of Xiangshan sent Mao Feipeng in a ‘fast boat (*kuaichuan*)’ to recover the vessel. Guo reported that ‘because Mao was outnumbered, the pirates successfully resisted arrest, injured Mao, and arrogated the fast boat’. After this humiliation, Guo ordered local civil and military leaders to assemble a squadron in retaliation. This force captured the pirates on ‘the sea of Duzigang’ within Xiangshan’s

³³ Murray, ‘Guangdong’, 158-159. Xiao, *Jiulong*, 55. Kröne, ‘Notice’, 118.

jurisdiction.³⁴ In addition to capturing patrol boats and fast boats, pirates could also capture Qing *two* ships. On 4 and 5 January 1855, pirates successfully captured two such vessels belonging to none other than the Dapeng colonel, Tan Jiao. Tan resorted to requesting for British assistance in the form of a steamship. The steamship engaged the pirates in the seas near Shanwei, east of Hong Kong, reportedly killing several dozen pirates and capturing nine.³⁵ In this instance, Britain's superior naval technology aided Qing efforts against pirates supplementing the inadequacies of the Qing navy and the emphasis on coastal defence in suppressing piracy. British forces, however, were not always so keen on assisting in the suppression of piracy. Indeed, British wariness of Chinese justice and insistence on sovereignty over Hong Kong made colonial officials reluctant to hand suspected pirates over to Qing authorities, which the Qing saw as impeding criminal justice.

British refusals to surrender alleged criminals to the Kowloon authorities prevented the execution of Chinese justice, thus depriving Qing officials of opportunities for their punishments to have the intended didactic effects. British interference in Qing criminal justice through harbouring alleged pirates impinged on Qing sovereignty over subjects in Guangdong waters. This interference disrupted an important means of suppressing piracy, namely the deterrent effect of the public beheading of pirates and display of their severed heads at the location of their crimes.³⁶ Such was the case of Huang Xinguang, who allegedly led a band of eight pirates and plundered a Chinese ship, injuring two crew members in the process on 10 June 1844 near Denglongzhou (later known as Kellett Island) in Victoria Harbour. Huang was eventually detained by Chief Magistrate William Caine. When 'the Mandarin of Kowlung' requested Huang's rendition, Governor Davis insisted to Caine that Huang was 'not to be given up to the Chinese authorities unless such evidence is produced before you as according to English Law would justify an indictment being preferred against him'.³⁷

³⁴ Memorial by Xu Guangjin and Ye Mingchen, DG 29/4/23 (15 May 1849), FO Guangdong Provincial Archives (931)/1011, TNA.

³⁵ Report by Xiao Ding'an, Xiangfeng (XF) reign 5/4/23 (7 June 1855), FO 931/957.

³⁶ Antony, *Unruly People*, 244, 249.

³⁷ Bruce to Caine, 26 June 1844, HKRS 100, 67.

The Dapeng colonel, Shen Zhenbang, protested against the British detention of and refusal to surrender Huang to Qing jurisdiction. Shen stated that since ‘piracy is listed among the most grievous of crimes’ and ‘the complainant Lai Yuanqing has already acknowledged that it was Huang Xinguang who led the pirates in the robbery, we need Huang to be detained by Chinese officials, so that he can shed light on his accomplices’. In his interactions with the Kowloon authorities, however, Caine claimed that Huang was a resident of Hong Kong and refused to release him to the Kowloon authorities. Caine went so far as to insist that Huang’s trial take place in Hong Kong, and that witnesses be sent to there for the purpose. Seeing Caine’s actions as a violation of the treaty stipulation that ‘when Chinese commit crimes, they should be under Chinese jurisdiction’, Shen appealed to Caine’s superior, Governor Davis, submitting a ‘request that Huang Xinguang be given up by Chief Magistrate Caine and delivered to Kowloon for investigation with the complainant Lai Yuanqing to see whether case is true or false’.³⁸ From the existing correspondence it seems clear that in some instances, British distrust of Chinese justice and their refusal to hand over criminals blocked the course of Qing criminal justice, an important component of its imperial hydrarchy.

Limits of British Imperial Hydrarchy

While British officials in China may have harboured doubts about the fairness of Chinese justice and the effectiveness of the Qing imperial hydrarchy, they also struggled with projecting state power seaward. Even on the island, British sovereignty at times appeared illusory. As early as May 1842, before negotiations over the Treaty of Nanking began, the *Canton Register* reported that ‘all there is of bad and worst in China have flocked and are flocking to Hong Kong’.³⁹ Alexander Johnston, deputy superintendent and acting governor of Hong Kong, confirmed the negative impact of the flow of disreputable figures to Hong Kong when he reported that ‘crime of the most serious nature has increased’. As crime proliferated from the beginning, the British criminal justice system on Hong Kong Island lacked the capacity to deal with it. In his report,

³⁸ Shen to Davis, DG 24/5/17 (2 July 1844), FO 682/1977/98.

³⁹ *Canton Register*, vol. 15, no. 19, 10 May 1842.

Johnston further stated that there were ‘confined in the Jail of this Island several persons charged with capital offences, and against whom there is clear evidence of guilt’. As he did not consider himself ‘authorized to award a sentence of the requisite severity, they remain untried’.⁴⁰ The situation remained unchanged after the establishment of a Supreme and Vice-Admiralty Court and a police force. Hong Kong’s criminal justice system struggled to process the proliferation of crime in the colony. Reflecting on the early years of the colony, Ernst Johann Eitel, a missionary, sinologist, and inspector of schools in Hong Kong in the late nineteenth century, remarked that the ‘scum of the criminal classes of the neighbouring districts looked upon Hongkong as their Eldorado and upon English law as a mere farce’.⁴¹ Governor Davis complained that ‘for Piracy the punishments are much too light’.⁴² Considering the punishments meted by English law too lenient to deter crime, law enforcement officers in Hong Kong resorted to harsher forms of punishment. The severity of such punishments in a colony intended as a model of British good governance came to the attention of Westminster. The House of Commons debate over the use of flogging as punishment in Hong Kong checked its prevalence and severity.⁴³ The unwillingness to compromise on English justice in Hong Kong hampered the colonial government’s ability to deter crime, enforce the law, and fully assert its sovereignty over the population.

Westminster’s insistence on the implementation of English law in Hong Kong, echoed by local colonial officials, strained the criminal justice system of the colony in other ways as well. Chief Magistrate Caine’s insistence that all cases of Chinese felony be tried by a jury flooded the Supreme Court with trivial cases. As early as 1847, the Supreme Court had so many cases that the chief justice could not attend to all of them, creating a substantial backlog. According

⁴⁰ Johnston to Aberdeen, 21 October 1842, CO 129/3, 148.

⁴¹ E.J. Eitel, *Europe in China*, 203.

⁴² Davis to Aberdeen, 5 July 1844, CO 129/6, 360.

⁴³ Eitel, *Europe in China*, 238-239. Christopher Munn, *Anglo-China: Chinese People and British Rule in Hong Kong, 1841-1880* (Hong Kong: Hong Kong University Press, 2009; originally published by Curzon Press, 2001), 151-156. James William Norton-Kyshe, *The History of the Laws and Courts of Hong Kong: Tracing Consular Jurisdiction in China and Japan and Including Parliamentary Debates, and the Rise, Progress, and Successive Changes in the Various Public Institutions of the Colony from the Earliest Period to the Present Time*, vol. 1 (London: T. Fisher Unwin, 1898), 128.

to Christopher Munn's estimates, some 175,000 individuals, mostly Chinese, appeared before Hong Kong's courts in the first three decades of the colony's existence.⁴⁴ Trying so many Chinese, almost all of whom had little to no knowledge of the English judicial procedures or language used in court, put enormous pressure on Hong Kong's criminal justice system. Given the variety of dialects spoken in southern China, finding interpreters sometimes proved impossible. The struggles of the Supreme Court were further compounded by the difficulty in finding reliable witnesses, many of whom would have been Qing subjects with no familiarity with the English language or judicial practice. The insurmountable problems faced by the Supreme Court resulted in three-quarters of all cases failing to secure a conviction.⁴⁵ Even though the Supreme Court's conviction rate was low, criminals still overburdened Hong Kong's jails; Hong Kong's prisons were almost always overfilled to 70 percent above capacity. As an attempt to relieve pressure, five hundred and seventy-six prisoners in Hong Kong were transported to British colonies, mostly in the Straits Settlements. As these colonies began to show reluctance to accept convicts from Hong Kong, colonial officials resorted to other measures to ease the strain on the colony's packed prisons. Early in 1857, one hundred and twenty-three Chinese prisoners were deported to Hainan due to the crowded conditions in Hong Kong's jail.⁴⁶

Despite its inefficiencies and incapacities, the criminal justice system in Hong Kong nonetheless proved a heavy financial burden on the colonial government and metropolitan Britain, which subsidised the colony until 1858.⁴⁷ For a colony that early governors envisioned as 'a vast Emporium of Commerce and Wealth' and 'a modern Tyre', the heavy expenses of criminal justice seemed to undermine the British project in Hong Kong. By 1845, colonial officials were aware that 'the charge of Convicts in gaol is likely to press very heavily on this

⁴⁴ Munn, *Anglo-China*, 109-111. Norton-Kyshe, *History*, 225-225.

⁴⁵ Christopher Munn, 'The Criminal Trial under Early Colonial Rule' in *Hong Kong's History: State and Society Under Colonial Rule*, ed. Tak-Wing Ngo (London: Routledge, 1999), 54-59. Norton-Kyshe, *History*, 263.

⁴⁶ Munn, *Anglo-China*, 220-226. Eitel, *Europe in China*, 312.

⁴⁷ Munn, *Anglo-China*, 89.

Colony'.⁴⁸ James William Norton-Kyshe, registrar of the Hong Kong Supreme Court, pointed out that by the end of the decade 'the Judicial Establishment, Police, and Gaols cost upwards of £21,000 per annum, or within £3000 of the entire revenue of the colony'.⁴⁹ While many British officials in Hong Kong recognised the necessity of a functional criminal justice system, their parsimony may have helped prevent its successful execution. Fiscal pressures further increased the strains resulting from British attempts to enforce English law in Hong Kong. The colonial government's struggle to maintain order in and assert sovereignty over the island of Hong Kong resulted in similar deficiencies in British imperial hydrarchy in surrounding waters.

The British inability to realise their island of sovereignty created problems in their attempt to project their power seaward. Though the Vice-Admiralty Court had the right to try, imprison, and even exile or execute pirates, the issues plaguing Hong Kong Supreme Court and criminal justice system in general also affected the Vice-Admiralty Court. In a testament to the gravity of the problem of piracy in Hong Kong, however, it proved a notable exception to the general inefficiency of Hong Kong's courts in securing convictions. In Munn's survey of Hong Kong court cases, piracy prosecutions, which involved over a quarter of all defendants, produced a conviction rate of 72 percent. Such a high rate of conviction stands in stark contrast to the Supreme Court's general conviction rate of about one quarter. Unfortunately, the efficiency of the Hong Kong Vice-Admiralty Court in convicting pirates contributed substantially to the pressures on the colony's criminal justice system as it clogged the jails.⁵⁰ This efficacy may have resulted from the caution of the Royal Navy, which often functioned as a police force for Britain's maritime authority in Chinese waters, in engaging pirates. Despite the Royal Navy's long tradition in suppressing piracy, which it considered an act for enforcing international law, the Queen's ships confronted pirates in China with an unusual timidity. On 8 March 1845, Rear-Admiral Cochrane issued orders that Royal Navy ships should

⁴⁸ Bruce to Caine, 16 December 1844, HKRS 100, 122.

⁴⁹ Norton-Kyshe, *History*, 263.

⁵⁰ Munn, 'Criminal Trial', 57. Gerald S. Graham, *The China Station: War and Diplomacy, 1830-1860* (Oxford: Clarendon Press, 1978), 91.

not interfere directly or indirectly with any Ship, Vessel, or Boat they may fall in with belonging to Chinese Subjects under the supposition that she may be a Pirate or have been engaged in any unlawful act, unless that she shall have within view attacked some British Vessel or Subject, or on such proof of the fact as would satisfy a Court of Admiralty in England; in which case the said vessel only is to be detained or interfered with.⁵¹

The uncharacteristic meekness of the Royal Navy in suppressing Chinese piracy resulted from a variety of restraints on its actions in China, including respect for China's territorial waters, the nature of Chinese piracy, and the divided command of the China squadron of the East Indies and China Station.

While British Admiralty jurisdiction extended over pirates on the high seas, in foreign territorial waters, i.e. those within three miles of the coast, pirates fell under the jurisdiction of the polity off whose shores they were operating. In the case of China, piracy in territorial waters and rivers fell under the jurisdiction of the Qing Empire. Within this maritime zone, with the exception of the seas less than three miles off the coast of Hong Kong, the Royal Navy could only take action against pirates with the consent of Qing authorities.⁵² International law thus substantially impaired British actions in a significant sphere of Chinese pirate activity. Even in places where the British officers considered they had the right to suppress piracy, such as Victoria Harbour and Hong Kong's territorial waters or the high seas more than three miles from the coast, the nature of Chinese piracy rendered its suppression difficult. Unlike piracy in the Atlantic Ocean, where pirates who went 'upon the account' became a professional group dedicated to maritime plunder and violence, the majority of Chinese pirates were non-professional.⁵³ Most Chinese who committed piracy were fisherfolk or other types of seafarers who turned to piracy only as a last resort in times of hardship. By 1848, the sea lords were aware

⁵¹ Colonial Office to Admiralty, 19 September 1844, ADM 1/5539 quoted in Grace Estelle Fox, *British Admirals and Chinese Pirates, 1832-1869* (London: K. Paul, Trench, Trubner & Co., 1940), 100. Graham, *The China Station*, 269.

⁵² Rubin, *The Law of Piracy*, 38. Fox, *British Admirals*, 89-91. R.P. Anand, *Origin and Development of the Law of the Sea* (The Hague: Martinus Nijhoff, 1983), 137-141.

⁵³ Peter Linebaugh and Marcus Rediker, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston: Beacon Press, 2000), 164. Dian Murray, 'Living and Working Conditions in Chinese Pirate Communities, 1750-1850' in *Pirates and Privateers: New Perspectives on the War on Trade in the Eighteenth and Nineteenth Centuries*, ed. David J. Starkey, E.S. van Eyck van Heslinga, J.A. De Moor (Exeter: University of Exeter Press, 1997), 50-51.

that 'the distinction between fair trader and the pirate is not always marked in the East and strong general measures for the suppression of piracy are subject to abuse and must be regulated with caution'.⁵⁴ Worries about attacking innocent Chinese on the pretext of suppressing piracy led the Admiralty to reiterate Rear-Admiral Cochrane's orders from four years earlier restraining Royal Navy actions against suspected pirates. Naval commanders in China often found themselves frustrated by the Admiralty's restrictions on the suppression of piracy. In a memoir of his naval career, John C. Dalrymple Hay, who on served on the East Indies and China Station in the 1840s, recounts an instance where he was 'sent by the senior officer to examine a reported piratical craft' in Hong Kong. Along with Daniel Richard Caldwell, the translator and later registrar general who frequently accompanied Royal Navy expeditions against pirates, he was 'confident of her bad character, but the Admiralty orders forbade us to capture any vessel unless we saw her commit an overt act of piracy'. Hay explicitly stated that he considered such orders 'senseless regulation' hindering the Royal Navy from effectively suppressing piracy.⁵⁵

The Royal Navy's effectiveness was further hampered by divisions between civilian and naval authorities. In Hong Kong, as in many parts of the British Empire in the nineteenth century, civilian administrators and naval commanders often had conflicting interests. Britain had two centres of authority for suppressing piracy in China: the governor of Hong Kong and the Admiralty. The absence of the commander-in-chief of the East Indies and China Station from this nexus created points of contention and rivalry. Holding authority over the Queen's ships on the China coast, the governor could command ships to engage in gunboat diplomacy to further or protect British interests.⁵⁶ In exercising this control, however, the governor deprived the admiral of ships necessary for strategic and convoy purposes. On their part, the commanders-

⁵⁴ Admiralty to Foreign Office, 27 October 1848, ADM 2/1665 quoted in Fox, *British Admirals*, 104.

⁵⁵ John C. Dalrymple Hay, *Lines from My Log-Book* (Edinburgh: David Douglas, 1898), 135. On Caldwell and the problems he caused for Hong Kong, see Christopher Munn, 'Colonialism "in a Chinese Atmosphere": The Caldwell Affair and the Perils of Collaboration in Early Colonial Hong Kong' in *New Frontiers: Imperialism's New Communities in East Asia, 1842-1953*, ed. Robert Bickers and Christian Henriot (Manchester: Manchester University Press, 2000), 12-37 and Guan Shipai [Uganda Sze-pui Kwan], 'Fanyi yu zhimin guanzhi: zaoqi Xianggangshi de shuangmian fanyizhe Gao-he-er (1816-1875) [Translation and Colonial Rule: Daniel Richard Caldwell (1816-1875), the Duplicitous Translator in Early Hong Kong History]', *Xiandai zhongwen wenxuebao* 10 (2012), 174-194.

⁵⁶ Graham, *The China Station*, 254-257. Fox, *British Admirals*, 89.

in-chief often proved reluctant to act on the governor or other civil authorities' behalf. Pottinger and Rear-Admiral William Parker clashed over the governor's authority over the Royal Navy in China, including the extent to which Pottinger could command ships of the East Indies and China Station to attack pirates. Parker's successor, Rear-Admiral Thomas Cochrane saw piracy in Hong Kong as a matter to be dealt with by the marine police rather than the Royal Navy. He believed that 'neither the stationing nor cruising [sic] of Vessels of War (had I them at my disposal) would produce any good results' against pirates. As Chinese 'pirates are very clever, their Boats most commonly not to be distinguished from ordinary fishing boats whose character they can assume at the shortest notice', they would easily avoid detection by Royal Navy patrols.⁵⁷ Divided command and conflicting interests as well as reluctance on the part of the Admiralty and naval commanders in engaging Chinese pirates reduced the Royal Navy's capacity to suppress piracy and uphold British maritime authority around Hong Kong. Hay recollected that 'the depredations of the pirates increased in audacity, when they found the Chinese Navy dared not, and the British Navy would not use its force against them,' all to the detriment of the British colony of Hong Kong.⁵⁸

As early as October 1842, when Alexander Johnston reported that 'crime of the most serious nature has increased' in Hong Kong, he noted that the prevalence of crime in the British colony seemed part of a larger trend in the Pearl River Delta. Johnston observed that 'piracy has greatly increased in the Canton River and among the neighbouring Islands, from the absence, during the last three years, of the usual Chinese Authorities formerly employed to suppress it'.⁵⁹ Johnston acknowledged the important role the 'Chinese Authorities' played in suppressing piracy when he noted the proliferation of the problem in their absence. Many other colonial officials and naval officers in and around Hong Kong shared Johnston's recognition of Qing officials' importance to maintaining order in the China seas and sought the cooperation of Qing

⁵⁷ Cochrane to Davis, 18 July 1844, ADM 125/145, 33-34. Graham, *China Station*, 258-263. Iain Ward, *Sui Geng: The Hong Kong Marine Police, 1841-1950* (Hong Kong: Hong Kong University Press, 1991), 8.

⁵⁸ John C. Dalrymple Hay, *The Suppression of Piracy in the China Sea, 1849* (London: Edward Stanford, 1889), 7.

⁵⁹ Johnston to Aberdeen, 21 October 1842, CO 129/3, 148-149.

officers in efforts against piracy. Such cooperation would lay the foundation for a collaborative imperial hierarchy between the British and Qing empires on the China coast.

Establishing a System of Cooperation for Suppressing Piracy

The Supplementary Treaty of the Bogue, signed on 8 October 1843, provided details for many of the agreements reached in the Treaty of Nanking and laid an important cornerstone for Anglo-Qing cooperation in suppressing piracy in Article IX. The article stipulated a system of reciprocal rendition of criminals:

If lawless Natives of China, having committed crimes, or Offences, against their own Government shall flee to Hongkong or to the English Ships of War or English Merchant Ships for refuge; they shall if discovered by the English Officers, be handed over at once to the Chinese Officers for trial and punishment; or if, before such discovery be made by the English Officers, it should be ascertained, or suspected, by the Officers of the Government of China whither such criminals and Offenders have fled, a communication shall be made to the proper English Officer, in order that the said criminals and Offenders may be rigidly searched for, seized, and, on proof or admission, of their guilt, delivered up.

Qing officials were expected to do the same if ‘any Soldier or Sailor or any other persons,—whatever his Caste or Country,—who is a Subject of the Crown of England’ fled as a fugitive into Qing territory. The treaty required Qing officials to hand such fugitives ‘to the nearest British Consular, or other Government Officer’.⁶⁰ Though British authorities declared a particular subsection of the Chinese in Hong Kong their subjects and denied the Qing any jurisdiction over them, Article IX addressed the issue of criminals among the Chinese in the colony who were not British subjects. The treaty gave Qing officials a degree of extraterritorial jurisdiction over their subjects in Hong Kong by requiring colonial authorities to hand over any fugitives among them to ‘Officers of the Government of China’. Given that British observers seemed to believe the worst elements of Chinese society were flocking to Hong Kong and even that Qing officials were intentionally sending criminals to Hong Kong to sabotage the colony, Qing officials through Article IX could potentially claim jurisdiction over a large number of the

⁶⁰ Article IX, Supplementary Treaty of Hoomun Chai in Imperial Maritime Customs (IMC), *Treaties, Conventions, etc., Between China and Foreign States*, vol. 1 (Shanghai: Statistical Department of the Inspectorate General of Customs, 1908), 201.

Chinese who were not British subjects there.⁶¹ This potential for extraterritorial jurisdiction by Qing officials over Chinese fugitives in Hong Kong could undermine British sovereignty over the island.

Though Article IX formally established a system of reciprocal rendition of fugitives between British and Qing authorities, the practice predated the treaty. As noted before, as early as 1842 British officials were already sending Chinese criminals arrested in Hong Kong to Kowloon. If reports on the criminal nature of the Chinese coming to Hong Kong are true, it is likely that many of the criminals that Caine sent to Lai Enjue had committed crimes on the Chinese mainland before going to Hong Kong. According to European international law of the time, as there was no treaty stipulation for Qing extraterritoriality over Chinese criminals in Hong Kong who were not British subjects, such criminals ought to have been under British jurisdiction. Considering the pressures on Hong Kong's fledgling criminal justice system, the rendition of criminals, including fugitive Qing subjects, to Kowloon may have been a necessary measure for reducing the strain on the colony's courts and prisons. Article IX may have merely been an attempt to codify and perhaps justify of the ongoing practice by colonial officials of handing Chinese criminals who were not British subjects over to the Kowloon authorities to alleviate pressures on Hong Kong's criminal justice system. It also shifted the burden of apprehending British subjects who committed crimes and fled to China to Qing authorities, perhaps further relieving British law enforcement officers of responsibility over Britons in China. The practice of handing over criminals to Chinese justice may have affected the Qing perception of their sovereignty over the Chinese in Hong Kong as revealed in Qiying's negotiations with Pottinger over the matter. While Article IX may have undermined British pretensions of an island of sovereignty over Hong Kong, it also provided a basis for Anglo-Qing cooperation in suppressing Chinese piracy. This cooperation produced a collaborative imperial hydrarchy in which British and Qing officials and forces complemented each other's efforts to establish control over the seas off the South China coast.

⁶¹ Munn, *Anglo-China*, 73.

Given the increased prevalence of piracy in and around Hong Kong after the Opium War, it is likely that many of the criminals handed over to the Kowloon authorities before the ratification of the Supplementary Treaty were pirates. British officials would have considered such a rendition of pirates in accordance with international law practices of the time. The notion of universal competence over piracy, whereby pirates as enemies of all mankind according to the law of nations could be tried in any tribunal, would have given Qing authorities the right to exert jurisdiction over Chinese pirates captured by the British forces. Qing officials, however, would have had little familiarity with the law of nations upon which universal jurisdiction over pirates was founded.⁶² Though they likely would have believed Chinese pirates were under their jurisdiction anyway, their own criminal justice system was straining, and some officials might have been hard pressed to accept the additional burden of dealing with fugitives handed over by authorities in Hong Kong. The colonial government's praise of the Kowloon authorities for accepting Chinese criminals apprehended in Hong Kong despite having 'their own District Duties to look after' suggests Lai Enjue and Xu Wenshen were burdened enough by their own affairs.⁶³ The added responsibilities of accepting Chinese fugitives from Hong Kong further increased pressures on the Kowloon authorities. Nonetheless, in establishing a system whereby British officials had obligations to hand Chinese criminals over to Qing jurisdiction, Article IX provided a legal means for the British rendition of Chinese pirates to Qing authorities in treaty law, which served as international law in China.⁶⁴ The Royal Navy in China could still act as 'vectors of law thrusting into ocean space', but with the authority to deliver Chinese pirates to

⁶² Rubin, *The Law of Piracy*, 94. Before 1862, no complete translation of any western work on the law of nations existed in China. At the time of the ratification of the Supplementary Treaty of the Bogue, China had only a fragmented experience of European international law. See Rune Svarverud, 'Re-Constructing East Asia: International Law as Inter-Cultural Process in Late Qing China', *Inter-Asia Cultural Studies* 12, no. 2 (2011), 311.

⁶³ Woosnam to Caine, 24 April 1844, HKRS 100, 46. See also Antony, *Unruly People*, 234.

⁶⁴ Arnulf Becker Lorca, *Mestizo International Law: A Global Intellectual History, 1842-1933* (Cambridge: Cambridge University Press, 2014), 86-87.

Qing authorities, Her Majesty's ships could become vectors of Qing rather than British law in the Chinese waters.⁶⁵

On 19 February 1843, Pottinger wrote to Qigong proposing cooperation in suppressing piracy. In response, Qigong sent Lai Enjue to Hong Kong.⁶⁶ This is likely the context in which Lai delivered his plans for suppressing piracy discussed above.⁶⁷ Pottinger concluded from his correspondence with Qing officials that they 'civilly declined' to cooperate with British efforts in suppressing piracy. In reporting Lai's aforementioned proposal for suppressing piracy and his imminent expedition against pirates to Rear-Admiral Parker, Pottinger requested that the admiral

issue the necessary instructions to all Her Majesty's Ships at this Station to aid the Chinese Cruizers *on application being made for assistance* in seizing and conveying to Kowloon any suspected Boats that may be traced or followed into this Harbor. Should the suspected Boats run in close and anchor, and their Crews desert them, the Chinese Authorities will, in such cases, go to the Chief or Marine Magistrates, and those Officers &c. able to render the required assistance from their own limited Establishments will apply either to one of Her Majesty's Ships, or to the Military Authorities on shore, according to circumstances.⁶⁸

While there do not appear to be any records of Lai's expedition, that Pottinger offered to cooperate and ordered Royal Navy ships to send any captured boats to Kowloon shows his willingness to allow the Queen's ships to act as vectors of Qing law in the seas around Hong Kong. Lai's sending interpreters with his expedition suggests he was willing to accept such British assistance. Another example of this willingness on the part of British forces to assist Qing officials in suppressing piracy occurred on 20 March 1845, when acting Harbour Master Alexander Lena supported a Qing expedition against pirates at Aberdeen (Xianggangzai), on the southwest coast of Hong Kong. The Kowloon authorities reported the pirates to Lena and offered to send two armed boats and a guide. A combined British and Chinese force succeeded in capturing the pirates at Aberdeen as well as another suspicious boat near Green Island, at the

⁶⁵ Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900* (Cambridge: Cambridge University Press, 2010), 112. Fox, *British Admirals*, 90-91.

⁶⁶ Qigong to Pottinger, DG 23/2/13 (13 March 1843), FO 682/1976/55.

⁶⁷ Lai Enjue to Pottinger, DG 22/1/24 (February 1843), FO 682/1976/49.

⁶⁸ Pottinger to Parker, 8 March 1843, ADM 125/145, 25. Emphasis in original.

western edge of Victoria Harbour. This expedition was perhaps the first instance of successful Anglo-Qing cooperation in suppressing piracy.⁶⁹

The cooperation between Lena and the Kowloon authorities developed into a *modus vivendi* for suppressing piracy. Such cooperation in which Royal Navy ships acting with intelligence or support from the Kowloon authorities became an effective means of suppressing piracy and revealed complementary aspects of the deficient British and Qing imperial hierarchies in the seas around Hong Kong. The Kowloon authorities, often lacking the naval strength to confront pirates could rely on ships of the most powerful navy in the world. Meanwhile, Royal Navy officers, hampered by restrictive Admiralty orders and uncertainty regarding the identity of Chinese pirates, could act with more confidence when guided by intelligence from Qing officials. Furthermore, by ceding Admiralty jurisdiction in many cases of piracy to Qing authorities, colonial officials could bypass Hong Kong's unwieldy courts as well as relieve the strains on the colony's criminal justice system. Though the Qing criminal justice system was also under pressure to deal with rampant criminality in Guangdong, several statutes in the Qing Code developed during the ladronne crisis made it fairly efficient at trying and sentencing pirates. The crime of piracy was considered so grievous that pirates could be summarily executed by royal mandate. While the statute's main purpose was to suppress piracy and banditry by making it easier to execute criminals, which as public spectacle had a deterrent effect, it also had the benefit of reducing the demand for space in Guangdong's crowded prisons.

British colonial and consular officials were likely aware of the efficiency with which the Qing criminal justice system processed and punished pirates. The British perception of Chinese law as barbaric and lacking nuance, particularly after the *Lady Hughes* affair, stemmed partly from the frequency and alleged arbitrariness of executions. Though British commentators may have questioned the fairness or legitimacy of Qing justice, they were certainly aware of its

⁶⁹ *China Mail*, vol. 1, no. 6, 27 March 1845, 24. Ma Yuan, *Xianggang falu huibian, yice: fazhi shishi* [Ordinances of Hong Kong Translated into Chinese, Vol. 2: A History of Hong Kong's Legal Institutions] (Hong Kong: *Huaqiao ribao* [Overseas Chinese Daily News], 1936), 25.

efficacy.⁷⁰ The difficulties British officials had in Hong Kong's courts in securing convictions could be circumvented by sending criminals, including pirates, to Kowloon and allowing them to be tried by Qing justice instead of English legal procedures, which proved unwieldy in China. Article IX thus had profound implications for suppressing piracy. As previously mentioned, the Qing and British imperial hydarchies were complementary. Britain had a powerful navy but lacked familiarity with the situation of Chinese pirates and an effective means of prosecuting them. On the other hand, the Qing Code had statutes facilitating the trial and punishment of pirates but lacked the naval power necessary to defeat them. Article IX allowed Royal Navy ships to become vectors of Qing law in the waters off the China coast. In capturing pirates, Her Majesty's ships turned them into the 'Natives of China, having committed crimes, or Offences, against their own Government' fugitive aboard 'English Ships of War' mentioned in the treaty. They could thus be handed over to Qing authorities. Realising the efficacy of such a system, British officials, including naval commanders, and the Kowloon authorities began to cooperate more in the suppression of piracy. Their cooperation created a system in which the complementary aspects of their respective state powers at sea combined to impose order over the increasingly unruly seaborne society around Hong Kong. As the collaborative imperial hydarchy between the British and Qing maritime states developed on both sides of Victoria Harbour, a similar *modus vivendi* of cooperation between British and Qing officials developed elsewhere along and indeed even beyond the China coast.

⁷⁰ Li Chen, 'Law, Empire, and Historiography of Modern Sino-Western Relations: A Case Study of the "Lady Hughes" Controversy in 1784', *Law and History Review* 27, no. 1 (Spring 2009), 40-43.

Chapter 3

‘The Mandarin Proved Himself a Gallant, Active, and Efficient Ally’: Collaborative Imperial Hydrarchy beyond Victoria Harbour, 1845-1856

By the mid-1840s, the Kowloon authorities, colonial officials in Hong Kong, and Royal Navy officers had developed a *modus vivendi* for collaboration for suppressing piracy in Victoria Harbour and the waters around Hong Kong in order to check the problem of piracy. Piratical activity, however, was not confined to this vicinity. Chinese piracy pervaded the entire China coast from Hainan in the south to the waters off Shandong in the far north.¹ The British presence on the China coast exacerbated the problem, as the predacious, parasitic nature of piracy meant that it often increased in correlation with the expansion of trade. The increased trade at the treaty ports opened by the British led to a correspondent increase in piracy. The disruption to existing maritime activity caused by the opening of the treaty ports caused many seafarers in South China to resort to piracy.² The changes particularly affected Victoria Harbour, where British officers ordered the batteries at Tsim Sha Tsui (Jianshazui) dismantled in the Convention of Chuenpi.³ In the place of Chinese fortifications, Henry Pottinger erected British batteries, one becoming known as Fort Victoria. At the end of the war, the Kowloon Peninsula opposite Victoria Harbour from Hong Kong Island became neutral ground, and Hong Kong officials prohibited the construction of any fortifications in Tsim Sha Tsui, the southern tip of Kowloon closest to the island.⁴ The removal of the Qing military presence from Tsim Sha Tsui meant that the Kowloon authorities often had to rely on the Royal Navy to suppress piracy in surrounding waters. While the situation for Qing authorities was less dire at the treaty ports, local officials

¹ *China Mail*, vol. 4, no. 161, 16 March 1848, 42.

² Bruce Swanson, *Eighth Voyage of the Dragon: A History of China's Quest for Seapower* (Annapolis, MD: Naval Institute Press, 1982), 51-52. Murakami Ei, *Haiyang shishang de jindai Zhongguo: Fujian ren de huodong yu Ying'guo, Qingchao de yinying* [A Modern Maritime History of China: Fujianese Activity and British And Qing Responses], trans. Wang Shilun (Beijing: Social Sciences Academic Press, 2013), 189-190.

³ E.J. Eitel, *Europe in China: The History of Hongkong From the Beginning to the Year 1882* (Hong Kong: Kelly & Walsh, 1895), 122.

⁴ Thomas Allom and G.N. Wright, *China in a Series of Views Displaying the Scenery, Architecture, and Social Habits of that Ancient Empire* (London: Fisher, Son, & Co., 1843), 40-41. Eitel, *Europe in China*, 181.

nonetheless often turned to the Royal Navy for assistance against pirates. This chapter looks at the development of collaborative imperial hydrarchy beyond Victoria Harbour, assessing its significance for British and Qing understandings of each other's jurisdiction over piracy.

Treaties made collaboration more feasible at other ports in China besides Hong Kong. Article II of the Treaty of Nanking opened 'Canton, Amoy [Xiamen], Foochow-fu [Fuzhou], Ningpo [Ningbo], and Shanghai' to British trade and allowed Britain to 'appoint Superintendents or Consular Officers' to act as intermediaries between Qing authorities and British subjects at these treaty ports.⁵ The treaty thus established British authorities along the China coast. Article X of the Supplementary Treaty of the Bogue, signed the following year, stipulated that 'at each of the five Ports to be opened to British Merchants, one English Cruiser will be stationed'.⁶ The posting of a consul and a warship at the provincial capital of Canton in such close proximity to a British colony and the headquarters of the Royal Navy's East Indies and China Station made the Canton Delta a particularly if not uniquely dense region of authority, British as well as Qing. The concentration of British and Qing power in the most crime-ridden region of Guangdong helped encourage the development of the cooperative *modus vivendi* for suppressing piracy beyond Hong Kong and Kowloon.⁷

Outside Hong Kong's territorial waters, British authorities could not legally exercise jurisdiction over sea space within three miles of Chinese territory. The efficacy and aggression of the Royal Navy, particularly in the vicinity of its headquarters, however, meant that British warships often acted against pirates in waters and even territories beyond British maritime jurisdiction. Unable to exclude the superior British sail and steamships, many Qing officials often recreated cooperative system that had developed around Victoria Harbour elsewhere along the China coast. By 1847, Rear-Admiral Samuel Hood Inglefield ordered that 'in the event of any

⁵ Article II, Treaty of Nanking, in Imperial Maritime Customs (IMC), *Treaties, Conventions, etc. between China and Foreign States*, vol. 1 (Shanghai: Statistical Department of the Inspectorate General of Customs, 1908), 160.

⁶ Article X, Treaty of the Bogue in *ibid*, 202.

⁷ On Qing administration in Canton see Robert Antony, *Unruly People: Crime, Community, and State in Late Imperial South China* (Hong Kong: Hong Kong University Press, 2016), 17-20, 64. On crime in the region, see *ibid*, 7, 133-135.

of H.M. Ships, and Vessels under my Command, capturing Chinese Piratical Vessels', the pirates were 'to be given up to the Chinese Authorities at the nearest Port of Trade'.⁸ The system of delivering pirates to Kowloon developed at Hong Kong could be replicated at each of the treaty ports. As this chapter shows, Anglo-Qing cooperation in suppressing piracy also extended to Chinese islands and territories outside of Hong Kong's control. It was also practiced beyond the maritime jurisdiction of both the British and Qing empires in foreign territorial waters and came to include other participants. These interactions against pirates, while effective, also produced misunderstandings regarding the limits of British and Qing authority in the China Seas. Despite the developments mentioned in previous chapters, collaborative imperial hydrarchy remained problematic and failed to resolve differences between British and Qing understandings of piracy.

Suppressing Piracy on Chinese Islands

Qing authorities recognised that the 'numerous islands scattered along the coast... are favourable places for pirates and other potential dangers'.⁹ Hong Kong and its surrounding islands were particularly notorious as pirate haunts. The infamous pirates Zheng Yi Sao and Zhang Bao used Hong Kong as a signal station. Piracy was so prevalent in Hong Kong and its surrounding islands that the Portuguese referred to them as the *Ladrones*, a title later used to describe the followers of Zheng and Zhang in the early nineteenth century.¹⁰ Even as British officials struggled to deal with Hong Kong pirates, piracy persisted in the other islands of the Ladrone group and others in and around the Pearl River Delta. Most of these islands lay beyond British control. When Dapeng Colonel Lai Enjue reported that Hong Kong Governor Henry Pottinger wanted to

⁸ Samuel Hood Inglefield, 'General Memo No. 12', 11 August 1847, Admiralty Records (ADM) Correspondence and Papers (1)/5604, The National Archives (TNA), Kew, UK.

⁹ Introduction to the 1780s version of the *Qisheng yanhai tu* [Coastal Map of the Seven Provinces], trans. Ronald C. Po, quoted in idem, 'Mapping Maritime Power and Control: A Study of the Late Eighteenth Century *Qisheng Yanhai Tu* (A Coastal Map of the Seven Provinces)', *Late Imperial China* 37, no. 2 (December 2016), 102.

¹⁰ Robert J. Antony and Sebastian R. Prange, 'Piracy in Asian Waters, Part 1: The Social and Economic Dynamics of Piracy in Early Modern Asia – An Introduction', *Journal of Early Modern History* 16, no. 6 (2012), 456. Zheng Guangnan *Zhongguo haidao shi* [A History of Chinese Pirates] (Shanghai: Huadong ligong daxue chubanshe, 1998), 432. Eitel, *Europe in China*, 130-131.

construct fortifications at Chaguoling, across the Lei Yue Mun Passage from Hong Kong, Guangdong Governor Cheng Yucai asserted that

The Treaty of Nanking clearly provides that only the island of Hong Kong has been ceded to England to administer. The island is the limit of British jurisdiction and administration. The area within the shores of the island is under the authority of Hong Kong. Areas beyond the shores of the island should be considered the territory of China.

Though Cheng conceded that 'islets, harbours, and promontories contiguous with Hong Kong' could be considered under British administration, he insisted that areas 'separated from Hong Kong by a stretch of sea' were under Qing jurisdiction.¹¹ British naval activity nonetheless extended to such areas.

Cheung Chau

The island of Cheung Chau (Changzhou), which lies to the southwest of Hong Kong just beyond the three-mile limit of the colony's territorial waters, was by Qing and British standards outside Hong Kong's jurisdiction.¹² It proved particularly problematic for British authorities in early colonial Hong Kong. As early as 1844, Governor John Davis was already complaining to Qing officials about pirates from Cheung Chau, offering 'to request His Excellency the Rear Admiral of Her Majesty's Squadron to cause one of his vessels to proceed thither for proofs against any of the inhabitants who may be concerned in piracy, which is equally opposed to the laws of China and England'.¹³ By invoking the notion of piracy as a crime against international law, Davis hoped to justify British naval intervention on an island beyond Hong Kong's jurisdiction. Governor-General Qiying responded that 'Cheung Chau is not contiguous with Hong Kong... it is outside the extent of the island of Hong Kong and should be under Chinese

¹¹ Cheng Yucai to Pottinger, Daoguang reign (DG) 24th year/3rd month/18th day (5 May 1844), Foreign Office Records (FO) Chinese Secretary's Office, Various Embassies and Consulates, China: General Correspondence (682)/1977/55, TNA.

¹² The island was associated with pirates even before the colonisation of Hong Kong. There is a cave on the island where Zhang Bao allegedly kept treasure in the early nineteenth century.

¹³ Davis to Qiying, 20 June 1844, Colonial Office Records (CO) Hong Kong, Original Correspondence (129)/6, 288, TNA.

administration'. He thus refused British assistance to suppress piracy at Cheung Chau but agreed to send Lai Enjue there to deal with the matter.¹⁴

If Lai ever went to Cheung Chau, his actions there did not have much effect. Less than a month after Davis's complaint about Cheung Chau pirates, Colonel Farquharson and 'the two young D'Aguilars', sons of Major-General George D'Aguilar, commander of British forces at Hong Kong, were sailing in a lorch from Macau to Hong Kong when they were attacked by a 'large piratical boat with 100 men'. The pirates killed the crew of the lorch but spared the British officers after they 'gave up everything arms & merchandises'.¹⁵ The attack brought the issue of Cheung Chau pirates back to the fore. Davis complained to Rear-Admiral Thomas Cochrane about the 'piratical attack... near the Island of Chang-chow [Cheung Chau], a few miles from the Western extremity of Hongkong'.¹⁶ He noted that Qing authorities were 'powerless against these common enemies' and proposed to Cochrane that the Royal Navy send an expedition 'as secretly as possible to the Island of Chang-chow, a notorious nest of pirates, and already denounced to me by His Excellency Keying'. Secrecy would have been necessary as such an action clearly violated Qing sovereignty, though Davis justified naval measures against pirates as 'common enemies' of Britain and China. Cochrane agreed to send '2 Launches, 2 Barges and a Gig, fully armed and manned... with the addition of 40 Soldiers' to Cheung Chau.¹⁷

Several days later, in a response to Davis's report of the attack on Farquharson and the D'Aguilars, Qiyong acknowledged Davis's intentions to coordinate with Cochrane to protect Hong Kong and its surrounding waters from piracy. He reported having sent orders to the colonel of Dapeng to work with Xin'an officials to endeavour to capture the pirates. Without commenting on the measures Davis proposed to take against pirates, Qiyong expressed the view

¹⁴ Qiyong to Davis, DG 24/5/13 (28 June 1844), FO 682/1977/94.

¹⁵ Entry for 26 July 1844, *The Private Illustrated Journal of Dr. E.H. Cree*, vol. 8, Personal Collection of Edward Hodges Cree (CRJ)/8, 44, Caird Library of the National Maritime Museum (NMM), Greenwich, UK. Lorchas were a type of hybrid vessel with European-style hulls and Chinese rigging. Henry Sze Hang Choi, *The Remarkable Hybrid Maritime World of Hong Kong and the West River Region in the Late Qing Period* (Leiden: Brill, 2017), 2.

¹⁶ Davis to Cochrane, 18 July 1844, ADM China Station Correspondence (125)/145, 28-29, TNA.

¹⁷ Cochrane to Davis, 18 July 1844, ADM 125/145, 36.

that ‘matters of theft affecting a foreign state should be dealt with by prefectural authorities who must hasten to apprehend pirates and who must not be allowed to escape by bribes or unconventional measures to continue to trouble the seas’. He thus ordered local officials from Dongguan and Panyu to also cooperate in arresting pirates. Qiying seemed to believe the matter of Chinese pirates, even when their victims were British, ought to be dealt with by Qing officials rather than the Royal Navy. He nonetheless gave the matter of piracy gravity, considering its suppression a condition for ‘mutual peace between Chinese and foreigners’.¹⁸

Despite Qiying’s tacit disapproval, Cochrane’s expedition to Cheung Chau and subsequent investigations against the Cheung Chau pirates yielded fruit. Major-General D’Aguilar, as the lieutenant-governor, named Beng Yasong, Beng Ya, and Zhang Sanfu, who lived in the jurisdiction of the mandarin of Fuyong in Xin’an, as pirates. D’Aguilar remarked that ‘if the pirates are allowed to thus flee the net of the law, it will be difficult to ensure the security of the lives of people on land and water and their shipping’. He then requested that Qiying issue orders to the Kowloon authorities to capture the pirates and return stolen goods.¹⁹ Qiying responded that the ‘colonel of Dapeng has reported that Beng Yasong and many of his accomplices come from the western approaches of Xin’an and that orders had been issued for their arrest’. He further stated that ‘the lairs of the pirates have been searched’ and that ‘orders have been sent to the colonel of Dapeng to consult with civil officials to lead an expedition’ against the pirates.²⁰ The British expedition to Cheung Chau, and the resultant information regarding pirates there, upon which Qing authorities promised to act, marked an extension, however indirect, of the *modus vivendi* for collaborative imperial hydrarchy beyond the jurisdiction of Hong Kong. The indirect collaboration established at Cheung Chau in 1844 laid the foundation for cooperation against pirates on other islands in the Pearl River Delta.

¹⁸ Qiying to Davis, DG 24/6/9 (21 July 1844), FO 682/1977/112.

¹⁹ D’Aguilar to Keying, 7 September 1844, Chinese translator unknown, FO 682/1977/130.

²⁰ Qiying to D’Aguilar, date missing (received 14 September 1844), FO 682/1977/131. On Fuyong and its administration see Rudolph Kröne, ‘A Notice of the Sanon District, Read before the [China Branch of the Royal Asiatic] Society, February 24th, 1858’ in *Journal of the Royal Asiatic Society Hong Kong Branch*, 7 (1967), 115-118.

Other Outlying Islands

While Qiying did not seem to mind the actions of the Royal Navy outside of Hong Kong's territorial waters, his successor as governor-general, Xu Guangjin, was much more stringent. When Davis's successor, Governor Samuel George Bonham, offered to help suppress piracy at Cheung Chau in 1848, Xu refused to permit British forces to attack Chinese subjects on Chinese territory.²¹ British naval commanders blamed Xu's obstruction of naval action as well as other restrictions on the Royal Navy for a subsequent increase in piracy on the China coast.²² The worsening problem of piracy eventually forced Qing and British authorities to engage in exceptional measures, such as the expeditions against Chui Apo and Shap-ng-tsai discussed below. The problem also drove the Royal Navy to take measures of questionable legality on other islands beyond Hong Kong's jurisdiction.

On 26 November 1849, Lieutenant Luard, in a pinnace from HMS *Hastings*, accompanied by a boat carrying Daniel Caldwell, pursued a piratical junk to the 'Island of Lantao [Lantau, Dayushan]' a Chinese island more than three miles from Hong Kong and thus outside of British jurisdiction. The pirates ran their ship aground and fled. Luard and Caldwell captured the junk and took it back to Hong Kong.²³ Such unilateral action by the Royal Navy against pirates on a Chinese island violated Qing sovereignty and Governor-General Xu's prohibition of British actions against Chinese subjects on Chinese territory. Despite Xu's condemnation of the Royal Navy's suppression of piracy beyond Hong Kong's immediate vicinity, local officials, such as the Kowloon authorities, nonetheless proved willing to cooperate in circumventions of Xu's restrictions against the British suppression of piracy.

By 1850, piracy had become so problematic that Qing officials began to take the initiative in inviting the assistance of the Royal Navy for suppressing it. The Kowloon authorities led the way, with the colonel of Dapeng requesting the assistance of a British steamship to go after

²¹ Bonham to Palmerston, 12 September 1848, CO 129/30, 259-260.

²² See John C. Dalrymple Hay, *The Suppression of Piracy in the China Sea 1849* (London: Edward Stanford, 1889), 5-7. idem, *Lines from my Log-Book* (Edinburgh: David Douglas, 1898), 135. William Laird Clowes, *The Royal Navy: A History from the Earliest Times to the Present in Seven Volumes*, vol. 7 (London: Sampson Low, Marston and Company, 1901), 351-352.

²³ Morgan to Massey, 27 November 1849, ADM 125/145, 111-112.

pirates at Kat-O (Ji'ao, now known as Crooked Island), an island in Mirs Bay (Dapeng Wan), well to the northeast of Hong Kong Island. On 3 March, Colonel Wen of Dapeng sent an officer to Hong Kong to report that:

certain pirates were reported to be lying some distance east of [Hong Kong], but that the monsoon was too strong to allow his own vessels to move up to the spot with sufficient rapidity; and, as he much feared that, unless apprehended at once, they might take alarm, and retreat to a hiding-place elsewhere, he requested that a British steamer might be sent to cut them off; and he declared his willingness to reimburse the expense of the fuel which she might consume.²⁴

Believing the pirates pointed out by Wen to be under the command of Chui Apo, who was suspected of having murdered two British soldiers in Hong Kong, Governor Bonham requested that Captain J.W. Morgan immediately send 'a Vessel of War to proceed in quest of these Freebooters'. Bonham believed such an expedition would not only 'prove of infinite advantage to the interests of the Native Shipping, so entirely unable to cope with these marauders', but also 'perhaps be the means of bringing to justice the alleged murderer Chui Apoo'.²⁵ In response, Morgan sent Commander William Nicholas Love Lockyer of HMS *Medea* to 'receive on board Mr. Caldwell of the Police Establishment, a Mandarin from the Cowloon side', and go after the pirates.²⁶

HMS *Medea* reached Kat-O on the evening of 4 March and opened fire on the junks there. By the end of the evening, Lockyer reported that one hundred and fifty pirates 'were destroyed by our Shells and Musketry', and five were captured 'with considerable loss on their side'. At the behest of the Kowloon mandarin who accompanied the mission, four junks were returned to their former owners. The next morning, a party of marines along with Caldwell and the Kowloon mandarin landed at Kat-O to 'scour the Island, and they succeeded in capturing 15 Prisoners'. Lockyer proudly concluded that 'we succeeded in destroying a much greater number of these Pirates than we could have hoped for, and with little, or no danger to the

²⁴ 'From H.E. Mr. Bonham to Sü, Imperial High Commissioner', 8 March 1850, quoted in *Chinese Repository*, vol. 19, no. 3, March 1850, 163. The Chinese version of this letter can be found in FO Superintendent of Trade, Legation, Peking, China: General Correspondence and Diaries (677)/26, 45, TNA.

²⁵ Bonham to Morgan, 4 March 1850, ADM 125/145, 115-116.

²⁶ Morgan to Lockyer, 4 March 1850, ADM 125/145, 116.

town,—only one Fisherman having been killed by our Shot’. In all, of the nine hundred pirates alleged to be on board the fleet at Kat-O, twenty were taken prisoner, 220 were reported killed, and 660 supposedly escaped.²⁷ British officers handed the twenty prisoners from the expedition over to the Kowloon authorities. Xu Guangjin, despite his reluctance to allow the Royal Navy to take actions against Chinese subjects on islands in the Qing Empire, nonetheless approved of the expedition to Kat-O, stating to Bonham that ‘your honourable country’s good intentions and amicability are sufficiently evident, which pleases me. Your Excellency has given orders to provide assistance in times of trouble. My intentions do not differ’.²⁸ The initiative of the Kowloon authorities thus produced an exercise of collaborative imperial hydrarchy beyond the waters of Hong Kong over which Qing provincial authorities expressed approval. The *Chinese Repository* celebrated that ‘at last the rulers have called in the assistance of western power and skill to help them, and accepted the offers made by the English authorities to assist in abating the nuisance’ of piracy.²⁹ The outcome of the expedition to Kat-O met with Qing and British approval. This willingness to allow British intrusions on Chinese maritime and terrestrial sovereignty had a precedent in the expeditions against two of the most notorious Chinese pirates in modern Chinese history – Chui Apo and Shap-ng-tsai.

Suppressing Piracy in Chinese Waters and Territory: The Expeditions against Chui Apo

On 25 February 1849, Captain Frederick Augustus Hippolito da Costa of the Royal Engineers and Lieutenant James Dwyer of the Ceylon Rifles were murdered in the village of ‘Wong ma Kok’ (Huangmaojiao) near Stanley (Chizhu), on the southeast corner of Hong Kong Island. Governor Bonham wrote that ‘the perpetrators are known to be men of piratical habits’.³⁰ In response, HMS *Fury* went to Stanley to ‘intercept all Chinese boats leaving that place, which is infested by pirates’ and to assist the military and police in apprehending the murderers. On 28

²⁷ Lockyer to Morgan, 5 March 1850, ADM 125/145, 118-120.

²⁸ Xu to Bonham, DG 30/2/1 (14 March 1850), FO 677/26, 45.

²⁹ *Chinese Repository*, vol. 19, no. 3, March 1850, 162.

³⁰ Bonham to Earl Grey, 21 March 1849, CO 129/28, 360, 362.

February the *Fury*, with 'Capt W.' of the Hong Kong Police and Chief Magistrate Charles Hillier, went to the nearby island of Lamma (Nanya) to make interrogations, but to no avail.³¹ From later depositions, Hong Kong officials decided that Chui Apo (Xu Yabao) had led a band of villagers against da Costa and Dwyer, who entered the house of 'Lo-yaong-shing alias Lo-Assee' and harassed Lo's daughter-in-law, 'Lo-chow-she'. Lo-yaong-shing identified Chui Apo as 'an occasional resident of the village, a known pirate; a native from Sun-chuen-phai in Kwei-sheen [Xincun in Guishan]'.³² The colonial officials declared Chui Apo and six others 'guilty of Wilful Murder' and issued a warrant for their arrest. The Hong Kong government offered a reward of \$500 for Chui's apprehension.³³

Shortly after issuing the notice for Chui Apo's apprehension, Bonham requested the extradition of the murderers of da Costa and Dwyer. Xu Guangjin replied that the murderers were natives of Guishan and Xin'an and that 'those districts should deal with the matter themselves', adding that he had 'issued orders to officials in those districts to make a serious effort to capture and punish the criminals'.³⁴ Five months later, however, the Guishan and Xin'an officials had not succeeded in bringing Chui Apo to justice, and Bonham again demanded Chui's extradition along with that of the six other criminals mentioned in the warrant for his arrest. Bonham criticised Xu's inaction as a violation of Article IX of the Supplementary Treaty of the Bogue, complaining that 'I have made utmost efforts in upholding this article and ordered many criminals to be arrested and handed over to the Kowloon authorities. Your Excellency has not sent a single criminal to my officers'.³⁵ Xu responded that he would 'permit strict orders to be issued for another sincere effort at investigating and arresting the pirates'. He emphasised, however, that because Chui Apo and his confederates 'have repeatedly committed

³¹ Entries for 25 and 28 February 1849, *The Private Illustrated Journal of Dr. E.H. Cree*, vol. 12, CRJ/12, 7-8, 10.

³² Depositions by Lo-Yaong-Shing, alias Lo-Assee taken 2 March 1849 enclosed in Bonham to Earl Grey, 21 March 1849, CO 129/28, 366-367. I have been unable to find the Chinese names of Lo and his daughter.

³³ W.T. Mercer, 'Government Notification', 6 March 1849, CO 129/28, 369. Chui Apo's name is also given 'Chui Apoo'. See note 25 above.

³⁴ Xu to Bonham, DG 29/2/17 (11 March 1849), FO 682/1982/14.

³⁵ Bonham to Xu, 2 August 1849, Chinese translator unknown, FO 677/26, 94.

crimes in China, they should be dealt with by Chinese officials. It is the same as the fact that when subjects of your honourable country commit crimes here, they cannot be delivered to China for trial'.³⁶ While denying the British jurisdiction over Chui Apo, Xu admitted that Chui was a pirate. British authorities took this admission as marking Chui Apo and his associates as *hostes humani generis* and justifying actions against them.

A series of disappearances and piratical attacks on British ships during the summer of 1849 caused unease in Hong Kong and pressured British officials to redouble their efforts against Chui Apo and other pirates. On 4 July, pirates captured the *Kim-hok-tye*, a Singapore merchant ship, at Hainan.³⁷ By September, the *Sylph*, a clipper belonging to Jardine, Matheson & Co. and the *Cowasjee Family*, had also gone missing. On 5 September, Captain William Edward Norton Troubridge, the senior naval officer at Hong Kong, sent Lieutenant Lockyer, commanding HMS *Medea*, to make inquiries along the Guangdong coast. At Dianbai, the *Medea* engaged a fleet of allegedly piratical junks and captured five of them. The *Medea* returned to Hong Kong on 12 September.³⁸ Several days earlier, Jardine, Matheson & Co. had hired the Peninsula and Oriental Steam Navigation Company's steamship *Canton* to go after pirates. Captain Troubridge sent Lieutenant Mould and a party of sailors and marines in a cutter from HMS *Amazon* to accompany the *Canton*. Shortly after leaving Macau on 9 September, the expedition encountered a suspicious junk that ran aground. Sailors from the *Canton* and *Amazon* pursued the fleeing Chinese ashore, killing several of them. The next day, at Dianbai, the *Canton* responded to an attack on its boats by firing on a group of junks, destroying two and taking several prisoners. The expedition then proceeded to Naozhou and Haikou where Lieutenant Mould met with local mandarins. At the latter location, the mandarin requested that the

³⁶ Xu to Bonham, DG 29/6/24 (12 August 1849), FO 677/26, 92.

³⁷ Taylor to Jardine Matheson, 4 July 1849, FO Consulates and Legation, China: General Correspondence, Series I (228)/100, 259. *China Mail*, vol. 5, no. 237, 30 August 1849, 138.

³⁸ *China Mail*, vol. 5, no. 239, 13 September 1849, 146. *Daily News*, 20 September 1849, quoted in *An Account of the Destruction of the Fleets of the Celebrated Pirate Chieftains Chui-Apoo and Shap-ng-tsai of China*, ed. Beresford Scott (London: Savill and Edwards, 1851), 4-5. William Laird Clowes, *The Royal Navy: A History from the Earliest Times to the Present*, vol. 6 (London: Sampson Low, Marston and Company, 1901), 354. *Chinese Repository*, vol. 18. No. 12, December 1849, 671.

prisoners be handed over, but Mould refused. The *Canton* returned to Hong Kong on 15 September and delivered twenty-five prisoners to the colonial magistrate.³⁹ Some of these were forwarded to Qing authorities.⁴⁰

The expeditions by HMS *Medea* and the *Canton* clearly violated Qing sovereignty. The seas off Dianbai '(i.e. White Lightning town), on the sea-coast, about 150 miles southwest from Canton', were well beyond Hong Kong's territorial waters.⁴¹ Britain had no jurisdiction over Chinese at Dianbai or its harbour. The landing of men near Macau to pursue pirates on 9 September violated the Qing Empire's territorial sovereignty. In reporting the expeditions to Xu Guangjin, however, Bonham justified the actions by citing them as retaliation for piracy against British ships. He stated that as Qing forces were incapable of preventing pirates from harassing British ships and Hong Kong, he was justified in sending warships to take actions against pirates. In the same letter, he noted that Chui Apo was a pirate leader and again requested his extradition as well as that of other pirates to Hong Kong.⁴² Bonham thus attempted to use the figure of Chui Apo as both a pirate and murderer of British subjects to expand Hong Kong's jurisdiction and justify a wider range of activity by the Royal Navy, even at the expense of Qing maritime and terrestrial sovereignty. As the murderer of da Costa and Dwyer, Chui Apo, according to Bonham, fell under Hong Kong's jurisdiction. As a pirate, he justified the Royal Navy's actions in Chinese waters and territory.

Xu Guangjin responded to Bonham's assertiveness by pointing out that Qing officials had captured 901 pirates since March 1849, and he 'again sent secret orders to the district officials and garrisons along the coast to make plans to investigate and capture pirates'. He also insisted that after Chui Apo was captured, 'he would be severely interrogated and punished to the utmost of the law as an example'.⁴³ Xu's orders did not deter Chui whose piratical activities

³⁹ *China Mail*, vol. 5, no. 240, 20 September 1849, 150. See also Clowes, *Royal Navy*, vol. 6, 355. *Chinese Repository*, vol. 18, no. 12, December 1849, 671.

⁴⁰ Bonham to Xu, 27 September 1849, Chinese translator unknown, FO 677/26, 84. *China Mail*, vol. 5, no. 242, 4 October 1849, 159.

⁴¹ 'Journal of a trip overland from Hainan to Canton in 1819, by J.R., the supercargo of the English ship *Friendship*, Captain Ross', in *Chinese Repository*, vol. 17, no. 5, May 1848, 244.

⁴² Bonham to Xu, 20 September 1849, Chinese translator unknown, FO 677/26, 85.

⁴³ Xu to Bonham, DG 29/8/8 (24 September 1849), FO 677/26, 84-85.

continued unabated. On 27 September 1849, in response to reported depredations by Chui Apo, Captain John C. Dalrymple Hay of HMS *Columbine* set out to engage the pirates. The next day, Hay encountered Chui's fleet at 'Tysami' (Daxingwei). HMS *Columbine* was joined the next day by the *Canton*, this time hired by 'Mr. Watkins who had chartered her for the purpose of looking after the *Coquette*, missing vessel'. With the assistance of the *Canton*, the men of HMS *Columbine* reportedly succeeded in destroying two junks and killing two hundred and fifty pirates. The remaining junks were either abandoned or fled to Bias Bay (Daya Wan). At this point, seeking reinforcements, Hay sent the *Canton* back to Hong Kong to request the assistance of HMS *Fury* 'and such other disposable force' as Rear-Admiral Sir Francis Augustus Collier could spare.⁴⁴

HMS *Fury* proceeded on 30 September to join the *Columbine* at 'Byas Bay, 40 NMiles to the eastward' of Hong Kong, well beyond the colony's maritime jurisdiction.⁴⁵ The next day, the ships encountered Chui Apo's fleet up a creek and opened fire, destroying a number of junks and killing some four hundred pirates. When the pirates fled ashore, marines were landed in pursuit. Captain Hay and Lieutenant Holland led the marines to 'scour the heights' but met no opposition.⁴⁶ The ship's log of HMS *Fury* recorded sending 'armed Boats & marines on shore to destroy the arsenal of the fleet'. The party destroyed '23 large Piratical Junks & several small' along with 'a Dock Yard and stores of all description'.⁴⁷ A week later, Bonham reported the engagements with Chui Apo's fleet near 'Ping-hoi [Pinghai], in the district of Kweishen [Guishan]' and Daxingwei. The expedition resulted in

the total annihilation of Tsü á pò's [Chui Apo's] fleet... 350 guns had also been destroyed; and two new junks on the stocks, at a place in the vicinity; as also two small dockyards, and a large supply of naval stores had been burned. There were besides some 400 pirates killed, and the rest, some 1400, dispersed—with arms, indeed, but without any means of continuing to exercise their dangerous vocation.

⁴⁴ Hay to Collier, 30 September 1849, in *Hong Kong Register*, 16 October 1849.

⁴⁵ Entry for 30 September 1849, CRJ/12, 55.

⁴⁶ Hay to Collier, 2 October 1849 in *Chinese Repository*, vol. 18, no. 10, October 1849, 559.

⁴⁷ W.H. Williams, Entry for 1 October 1849, *Log of HM Steam Vessel Fury Commencing First of June 1849 Ending Twentieth of October 1849*, ADM Ships' Logs (53)/1706, TNA.

Bonham further mentioned that Chui Apo had allegedly escaped the battle wounded and requested that 'immediate orders' be sent to 'the local authorities of the Coast districts... to search for and seize him; and to lose no time in following up this successful attack upon his band, and utterly exterminating them'.⁴⁸

Despite this wholesale killing of Qing subjects in Chinese waters and territory, Xu Guangjin responded to Bonham's report with 'great joy'. He also pointed out examples of Qing actions against pirates by the Pinghai garrison and District Magistrate Shen of Guishan. These actions had driven Chui Apo's fleet to Shanwei, where 'Shanwei soldiers and braves attacked the pirates and drove them to the outer oceans, where they met with your honourable country's cruisers'. This engagement, likely referring to HMS *Columbine* and the *Canton*'s attack of 28 September, forced the pirates to the harbour of Duntou, where the Huizhou authorities opened fire from a battery and captured eighteen pirates. Xu affirmed that he 'immediately issued orders to the coastal districts and garrisons to make searches and seizures' and concluded that 'since Chui Apo has been injured, I imagine it will be difficult for him to escape very far. If he has not yet died, when he has been captured and committed to trial, he will certainly be dealt with and punished severely'.⁴⁹ Xu thus emphasised the role of Qing officials and their initiative in the victory against Chui Apo. By mentioning the action of HMS *Columbine* and *Fury* and the *Canton* and not rebuking the British for violating Qing maritime and territorial sovereignty, Xu tacitly approved of a closer collaboration with British forces in suppressing piracy. Such cooperation resulted in one of the most impressive examples of Anglo-Qing collaborative imperial hydrarchy – the defeat of 'the most audacious marauder who has appeared since the renowned Apotsai [i.e. Zhang Bao]' in the China Seas, Shap-ng-tsai.⁵⁰

⁴⁸ Bonham to Xu, 8 October 1849, in *Chinese Repository*, vol. 18, no. 10, October 1849, 559-560. For the Chinese version, see Bonham to Xu, 8 October 1849, FO 677/26, 81.

⁴⁹ Xu to Bonham, DG 29/8/25 (11 October 1849), FO 682/1982/45.

⁵⁰ *Chinese Repository*, vol. 8, no. 11, November 1849, 611.

Suppressing Piracy in 'Barbarian Seas': The Expedition against Shap-ng-tsai

Though British and Chinese officials celebrated the defeat of Chui Apo, the menace posed by Shap-ng-tsai (Shi Wu Zi, an alias of Zhang Kaiping) persisted. British sources record Chui Apo as a subordinate to Shap-ng-tsai.⁵¹ It was thus to Shap-ng-tsai that the Royal Navy turned its attention after the defeat of Chui Apo. British officials believed Shap-ng-tsai was responsible for the disappearance of several British merchant ships. A week after the defeat of Chui Apo, Rear-Admiral Collier gave Captain Hay command of a flotilla consisting of HMS *Columbine* and *Fury* and HEICS *Phlegethon* along with a 'carte blanche' to go after Shap-ng-tsai.⁵² On 8 October, the ships set off after the 'energetic Chinaman, called Shap-ng-schi, known to the Hong Kong people as a desperate robber'.⁵³

Though the recent disappearances of the *Sylph*, *Greyhound*, *Coquette*, and *Ann Eliza*, in which pirates were suspected, prompted the Royal Navy to take action against Shap-ng-tsai, he had been a problem for the Chinese well before 1849. As early as 1846, Hay claims to have chased Shap-ng-tsai into Bias Bay in HMS *Wolverine*. By 1847, Shap-ng-tsai's pirate band spread its activity up north to Fujian, harassing Amoy and Fuzhou, encouraging cooperation between Qing and British forces there.⁵⁴ In September 1848, the *China Mail*, based on statements in the *Peking Gazette*, reported that 'Sa-pong-tsae, the daring pirate from Chek-Chu [Chizhu, Stanley], who took possession of several forts on the coast near Teenpak [Dianbai], with all the guns in them, still defies the local government'.⁵⁵ The following month, the assistant magistrate of Panyu issued a proclamation stating that 'there is one man, Shik-woo-sze, who

⁵¹ *China Mail*, vol. 5, no. 242, 4 October 1849, 158-159. See also, Hay, *Suppression of Piracy*, 26-27. Idem, *Lines*, 172. Clowes, *The Royal Navy*, vol. 6, 353. Grace Estelle Fox, *British Admirals and Chinese Pirates, 1832-1869* (London: K. Paul, Trench, Trubner & Co., 1940), 107. Interestingly, Edward Cree, surgeon aboard HMS *Fury* during the expeditions against both pirates, never mentions a connection between the two. I have also been unable to find any correlation between Chui Apo and Shap-ng-tsai in Chinese sources.

⁵² Hay, *Lines*, 178.

⁵³ Entry for 8 October 1849, CRJ/12, 61-62.

⁵⁴ Jonathan Chappell, 'Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842-1869', *The International History Review* 40, no. 3 (2018), 480. Hay, *Suppression of Piracy*, 12.

⁵⁵ *China Mail*, vol. 4, no. 189, 28 September 1848, 155. 'Sa-pong-tsae' is likely a variation of the romanisation of Shap-ng-tsai's name.

boldly dares to rob the sea, (he is indeed addicted to wickedness), to the great injury of merchants' and to warn against providing any pirates with provisions. The proclamation further stated that a 'great officer has taken command of the troops in order to exterminate pirates'.⁵⁶ The announced actions seemed to have little effect, as Shap-ng-tsai continued his depredations. By this time, however, piracy by similar figures threatened grain transport from Guangdong to Beijing, and Emperor Daoguang increasingly pressured local officials to deal with the problem of piracy. The emperor's demands drove local officials to increase their willingness to cooperate with their British counterparts against pirates.⁵⁷

The reaction of Qing officials at Haikou to the arrival of Captain Hay and Lieutenant Willcox, commanding HMS *Fury*, on 13 October serves as a potent example of the newfound willingness for cooperation. Hay reported that the 'Governor General ("Ho") [He Fang]' displayed 'a most friendly feeling to the English Nation'.⁵⁸ Edward Hodges Cree, a naval surgeon on HMS *Fury*, also mentions that the 'Governor' treated Hay and Willcox with 'much civility and offered to render any assistance in destroying the pirates, who had been a terror to the whole coast'. As a result, He Fang sent the 'naval commander, Wang-Hai-Quong [Huang Kaiguang], an acting major-general in the Chinese service', to cooperate with the British against Shap-ng-tsai.⁵⁹ Huang commanded '8 War Junks' to accompany the expedition, but Hay 'gave him a passage to prevent delay, on board the "Fury"'.⁶⁰ This unprecedented degree of cooperation was likely motivated by pressures from the emperor and the increasing threat posed by piracy as much as any goodwill Qing officials may have had for British naval officers. Huang, for his part, seemed happy to accompany the expedition. Cree described Huang Kaiguang, who

⁵⁶ Proclamation by 'Chow, by appointment assistant magistrate of Pwan-yü', translator unknown, quoted in *China Mail*, vol. 4, no. 193, 26 October 1848, 170. 'Shik-woo-sze' is likely a romanization of the Mandarin pronunciation of Shap-ng-tsai's name.

⁵⁷ Chappell, 'Maritime Raiding', 481.

⁵⁸ Hay to Collier, 23 October 1849, ADM 125/145, 98.

⁵⁹ Entry for 13 October 1849, CRJ/12, 65-66. British observers seemed confused about He Fang's role. He was neither 'governor general' nor 'governor' but a brigadier-general (*zongbing* or *zongzhen*). He gives his full title in He to Bonham, DG 29/9/11 (26 October 1849), FO 677/26, 71. The original of this document, in which the section containing He's title is damaged is He to Bonham, 26 October 1849, FO 682/1982/50. See also Memorial by Xu Guangjin, DG 29/11/15 (28 December 1849), FO Guangdong Provincial Archives (931)/1034, TNA.

⁶⁰ Hay to Collier, 23 October 1849, ADM 125/145, 98-99.

was in reality the lieutenant-colonel at Haikou, as ‘a fat good humoured, but active looking Chinaman of about 40; he expects to get his promotion, if we catch Shap-ng-schi, of that he may, I think, make sure’. The good-humoured Huang acted as a pilot for the expedition.⁶¹

Huang’s piloting, and information from Daniel Caldwell, who acted as interpreter, eventually brought the anti-piracy flotilla to ‘Fo-Foong’, in Cochin China (now Vietnam, called Annam [Annam] in Chinese sources) on 20 October. There a ‘piratical fleet’ opened fire on the British ships.⁶² Chinese sources record that on the ‘Annamese seas of Huafeng’, British forces and Huang Kaiguang attacked a pirate named Zhang Kaiping.⁶³ Many British sources record Shap-ng-tsai’s surname as Cheung or Chang (Zhang).⁶⁴ Given the coincidence between Zhang Kaiping in Chinese sources and Shap-ng-tsai in British records, it is almost certain they are one and the same person. Captain Hay reports destroying Shap-ng-tsai’s junk on the afternoon of 20 October and burning another twenty-seven before putting ‘the squadron in position to blockade the river’ before nightfall. The next day ‘the Steamers and Boats destroyed 24 more’ pirate junks.⁶⁵ Cree records the blockade as taking place near ‘Chok-am’, spelled ‘Chokeum’ in Hay’s report and ‘Chookham’ in the logbook of HMS *Fury*. He further details that the actions of 21 October took place ‘about ten miles farther’ up the river from Chok-am. During the engagements, ‘the pirates deserted and were dispatched by the Tonquinese [i.e. the Vietnamese]’, and ‘our old general, Wong [Huang Kaiguang], showed some pluck in jumping overboard from one of the boats and swimming to a junk and capturing three of the pirates

⁶¹ Entry for 14 October 1849, CRJ/12, 67. Cree’s prediction regarding Huang Kaiguang’s promotion came true when, on Xu’s proposal, Huang was promoted for his actions against pirates. See Memorial by Xu Guangjin, DG 30/12/13 (14 January 1851), FO 931/1269 and Imperial Edict, Xianfeng reign (XF) 1/2/*binxu* (31 March 1851) in *Da Qing lichao shilu* [Veritable Historical Records of the Qing Dynasty] (*QSL*), Xianfeng reign (XF)/28 *juan*.

⁶² Entry for 20 October, CRJ/12, 73. The Logbook of HMS *Columbine* records the name of the location in Cochin China as ‘Farfong’. Entry for 20 October 1849, *Ship’s Log for HMS Columbine, 9 July 1849 to 9 January 1850*, ADM 53/2346.

⁶³ See He to Bonham, DG 29/9/11 (26 October 1849), FO 677/26, 71. Memorial by Xu Guangjin, DG 29/11/15 (28 December 1849), FO 931/1034. Memorial by idem, DG 30/4/22 (2 June 1850), FO 931/1201, 7-8. Memorial by idem, DG 30/5/22 (1 July 1850), FO 931/1207, 14-16. ‘Fo-Foong’ and ‘Farfong’ in the English accounts are likely romanisations of the Cantonese pronunciation of Huafeng.

⁶⁴ For examples, see *China Mail*, vol. 5, no. 246, 1 November 1849, 175. *Chinese Repository*, vol. 18, no. 11, November 1849, 611, 616. Bonham to Xu, 6 November 1849, FO 677/26, 69.

⁶⁵ Hay to Collier, 23 October 1849, ADM 125/145, 99.

himself'.⁶⁶ In attacking pirates up an Annamese river, the Royal Navy and Huang Kaiguang clearly violated British and Qing maritime law by infringing on a foreign polity's territorial waters.

This impingement on Annamese maritime sovereignty continued the following day, when HEICS *Phlegethon* and the ships' boats went '14 miles above Chok-am' to finish off the remainder of Shap-ng-tsai's fleet. Many of the pirates who fled ashore were 'killed by the natives'. Annamese military officials visited HMS *Fury* and provided 'boat-loads of wood'.⁶⁷ According to a Chinese report, on 22 October, the pirates

met with a naval patrol under the leadership of Huang Kaiguang. That officer killed over five hundred pirates and captured over one hundred. He also captured over a hundred large and small cannon, rescued over eighty prisoners, and forwarded them all to Qiongzhou for investigation.⁶⁸

Hay's report suggests Huang's actions were less impressive. He wrote that 'the Mandarins had destroyed 4 [junks] and finished 2 others'. Hay nonetheless praised 'Major General Wong [Huang] the Mandarin' who 'proved himself a Gallant, Active and efficient ally' and mentioned that Huang 'took with him about 400 men'.⁶⁹ The prisoners were taken to Haikou and delivered to Qing authorities on 26 October with much pomp.⁷⁰ On receiving news that British 'steam cruisers attacked pirates on the seas of Annam' with the 'assistance of Annamese officers', Xu Guangjin declared the successes against Shap-ng-tsai 'a cause of great joy'. He further compared Shap-ng-tsai, who escaped the battle, to 'a fish at the bottom of a cauldron' and reckoned his capture would be a simple matter.⁷¹ The Admiralty ultimately awarded the participants in the expedition against Shap-ng-tsai £42,425, much to the chagrin of the Westminster.⁷²

⁶⁶ Entry for 21 October 1849, CRJ/12, 75-77. See also, Entries for 21 and 22 October 1849, *Ship's Log for HMS Fury, 21 October 1849 to 2 April 1850*, ADM 53/1707. I have been unable to find the Chinese name for Chok-am.

⁶⁷ Entry for 22 October 1849, CRJ/12, 79. See also, Entry for 22 October 1849, ADM 53/1707.

⁶⁸ Memorial by Xu Guangjin, DG 30/4/22 (2 June 1850), FO 931/1201, 8.

⁶⁹ Hay to Collier, 23 October 1849, ADM 125/145, 99. Most of the pirates taken prisoner were likely captured by the Annamese. See also Entry for 23 October 1849, CRJ/12, 81.

⁷⁰ Entry for 26 October 1849, CRJ/12, 85-87.

⁷¹ Xu to Bonham, DG 29/9/28 (12 November 1849), FO 682/1982/58.

⁷² Fox, *British Admirals*, 110-111.

The expense and wanton destruction of the expedition against Shap-ng-tsai ultimately incurred Westminster's disapproval, and proved unsustainable.⁷³ It nonetheless had a lasting impact on the *modus vivendi* between the British and Qing empires for suppressing piracy off the China coast and indeed beyond. Qing officials seemed more willing to cooperate with the British against pirates after 1849. Huang Kaiguang's direct involvement set a precedent for Qing officials accompanying British expeditions against pirates. The Kowloon official who accompanied HMS *Medea* to Kat-O, discussed above, and Zhang Yutang's role in the Coulan expedition, discussed below, all followed the example of Huang Kaiguang. The fact that the engagement against Shap-ng-tsai took place well beyond the maritime jurisdictions of Britain and China suggests that the two empires could use each other to justify the extension of their respective imperial hydrarchies. Finally, the involvement of the Annamese in the action shows that the system of cooperation developed between Britain and China could be internationalised to include other states. As the continued prevalence of piracy in the Pearl River Delta proved that Anglo-Qing efforts were sometimes insufficient for suppressing piracy, the assistance of other naval forces on the China coast, particularly the those of the United States of America and Portugal, were on occasion invited in actions against pirates. The capacity of Anglo-Qing collaborative imperial hydrarchy to include Annamese participation against Shap-ng-tsai helped lay the foundation for an even more international effort against the pirates of Coulan (Gaolan) five years later.

'Putting Down a Common Enemy': The International Expedition to Coulan

In early October 1854, Chinese pirates attacked the Chilean barque *Caldera* after she lost her masts in a typhoon. The *Caldera*'s crew and passengers, including Captain Matthew Rooney, who was a British subject, and Fanny Loviot, a French woman, were captured.⁷⁴ On hearing of Loviot's capture, the French vice-consul in Hong Kong, George L. Haskell, requested that

⁷³ Chappell, 'Maritime Raiding', 482.

⁷⁴ Loviot's account of her capture appears in Chapters Five through Nine of Fanny Loviot, *A Lady's Captivity Among Chinese Pirates in the Chinese Seas*, trans. Amelia B. Edwards (London: George Routledge & Co., 1858).

Captain William Hoste of HMS *Spartan* send a force to accompany a 'steamer' that 'agents of the insurance companies (interested in the cargo of the bark)' would prepare to rescue the 'unfortunate person'.⁷⁵ Captain Hoste sent '85 seamen and marines under Lieutenant Palliser' in the hired steamer *Ann* to search for Loviot. Palliser was given 'orders to search for the French subject... and to destroy the town of Coulan, should he obtain certain information of the inhabitants being concerned in the plunder of the *Caldera*'. Hoste assured commander-in-chief that

There can be no doubt Coulan is the stronghold of a large piratical fleet that has infested this neighbourhood, and committed great depredations for the last seven months. No ship on the coast or passing its vicinity is safe. They detach small parties to plunder in this neighbourhood who carry their booty to Coulan, where they consider themselves impregnable.⁷⁶

The force under Lieutenant Palliser succeeded in firing on and burning 'the villages of Cochoo-mee' but when it 'pulled into Coulan Bay', Palliser found he had insufficient force to deal with the junks and battery there.⁷⁷ In a Chinese military report that mentioned the capture of 'the French woman Fan', Palliser's expedition is credited with 'destroying over ten pirate junks, killing over one hundred pirates'. The report claims the remainder of the pirates escaped but their junks ran aground and were captured by 'Xiangshan official cruisers and war junks'.⁷⁸ Palliser's expedition thus represents the extension of a form of indirect cooperation, akin to the separate British and Qing actions taken against Chui Apo, to an island under the jurisdiction of the Xiangshan district. As neither British nor Qing forces seemed fully capable of dealing with the Coulan pirates, a closer cooperation between the two as well as with other states would be necessary.

⁷⁵ Haskell to Hoste, 16 October 1854 quoted in *Pirate Outrages: True Stories of Terror on the China Seas*, ed. Douglas R.G. Sellick (Fremantle, Australia: Fremantle Press, 2010), 123-124.

⁷⁶ Hoste to Stirling, 20 October 1854, quoted *Pirate Outrages*, ed. Sellick, 124-125. Coulan is also spelt Kulan in some English sources. A monument to an Anglo-American expedition there in 1855, which is still currently standing in the Hong Kong Cemetery in Happy Valley, records the name as 'Kuhlan'.

⁷⁷ Palliser to Hoste, 26 October 1854, quoted in *Pirate Outrages*, ed. Sellick, 127-128. I have been unable to find the Chinese name of Cochoo-mee.

⁷⁸ Author unknown, XF 4/9/day missing (c. October-November 1854), FO 931/1471.

Rear-Admiral James Stirling had been in contact with Ye Mingchen, Xu Guangjin's successor as governor-general of Guangdong and Guangxi, regarding the problem of 'vessels engaged in the business of Robbery upon the waters within [Qing] Imperial Jurisdiction' and requested that Ye take action.⁷⁹ When Ye confessed that he lacked the forces to deal with piracy in Chinese waters, Stirling offered to send a British expedition against the Coulan pirates. He 'communicated through Mr. Consul Robertson with the Chinese authorities in the Kwangtung [Guangdong] Province, and received their sanction for the coercive measures that he proposed to adopt'.⁸⁰ Despite his infamous mistrust of the British, who now proposed a violation of Qing maritime sovereignty, Ye supported Stirling's initiative and even sent Dapeng Colonel Zhang Yutang and a war junk to accompany the British force. Others also supported Stirling's proposed measures. The governor of Macau, Isidoro Francisco Guimarães, sent the *Amazona*, an armed lorch, to accompany the expedition; the Commodore David Geisinger sent the *Queen*, a steamship hired by the United States Navy; Chinese merchants raised \$5,000 and chartered the P & O steamers *Canton* and *Sir Charles Forbes* to support the British force of HMS *Barracouta*, *Encounter*, and *Styx*, along with boats from HMS *Winchester* and *Spartan*.⁸¹ A truly international force was assembled against the Coulan pirates.

In mid-November 1854 the expedition, under Captain George William Douglas O'Callaghan of HMS *Encounter*, set out for Coulan. A Chinese observer reported that warships at Hong Kong had 'taken on over one thousand troops', and that 'three warships of various sizes and three steamships' sailed out to seek revenge against the pirates who attacked the *Caldera*.⁸² The international flotilla encountered three suspicious junks, which were searched by Royal Navy sailors accompanied by one of Zhang Yutang's officers and Daniel Caldwell, who acted as interpreter. When goods from the *Caldera* and Triad passes were found on board and Zhang

⁷⁹ Bowring to Foreign Office, 30 November 1854, in ADM 1/5661, quoted in Fox, *British Admirals*, 124.

⁸⁰ William Caine to George Grey, 25 November 1854, CO 129/47, 303.

⁸¹ Fox, *British Admirals*, 124-125. Supplement to the *Overland Friend of China*, 27 November 1854, quoted in *Pirate Outrages*, ed. Sellick, 132-134.

⁸² Author unknown, XF 4/9/day missing (c. October-November 1854), FO 931/1471.

Yutang confirmed that the junks were piratical, the ships were burned.⁸³ That evening, the flotilla formed a blockade of Coulan to prevent any pirates from escaping. The next morning, with approval from Zhang Yutang, a force was landed at Coulan. According to the *China Mail*, a total of three hundred and forty men were landed at Coulan: two hundred and eighty British, twenty-five Portuguese, twenty Chinese, and fifteen Americans.⁸⁴ The force ‘destroyed 3 batteries, and some villages at a place called Coulan’ and the ‘Villages were burnt at the desire of the Mandarin accompanying’.⁸⁵ Captain O’Callaghan further reported the destruction of fifty junks as well as the capture fifty guns to Rear-Admiral Stirling. He claimed that between fifty and sixty pirates were killed, and thirteen pirates were taken prisoner and handed over to Zhang Yutang.⁸⁶

The Coulan expedition was a high-water mark of cooperation against piracy before the *Arrow* War, discussed in the next chapter. The international expedition extended the collaborative imperial hierarchy between the two sides of Victoria Harbour to an island well beyond Hong Kong’s maritime jurisdiction and included Portuguese and American involvement. The *China Mail* celebrated the expedition as ‘the most complete of its kind ever sent from this colony’ and ‘singular as one of the phenomena of the age. Here were English and Americans, Portuguese and Chinese, hand in hand together, heartily engaged in putting down a common enemy’.⁸⁷ The *Boletim do Governo de Macao, Timor e Solor*, Macau’s government gazette, praised the actions of three marines and Senior Lieutenant João Eduardo Scarnichia, who commanded the *Amazona*; the *Boletim* also included a poem by J.M. da Fonseca entitled ‘To the “Amazona”: For My Friend J.E. Scarnicha’, which included the stanza

For never until now did the sacred corners
Of the Portuguese Flag

⁸³ Supplement to the *Overland Friend of China*, 27 November 1854, quoted in *Pirate Outrages*, ed. Sellick, 134-135.

⁸⁴ *Ibid*, 131, 136-138.

⁸⁵ Caine to Grey, 25 November 1854, CO 129/47, 304.

⁸⁶ Fox, *British Admirals*, 125.

⁸⁷ Supplement to the *Overland Friend of China*, 27 November 1854, quoted in Sellick, ed. *Pirate Outrages*, 142.

Cover in the waters of Macau

A more beautiful vessel.

The poem also included lines on the *Amazona*'s 'so lightly pursuing/The fugitive pirate'.⁸⁸ Even Governor-General Ye believed 'the capture and destruction of a great number of pirates was such as to deserve the highest commendation'.⁸⁹ He wrote to Bonham's successor as British plenipotentiary and governor of Hong Kong, John Bowring, that the expedition was 'sufficient evidence' of Britain's 'sincere designs against a common foe'.⁹⁰

Such paeans to the Coulan expedition may have been premature, especially for the British and Americans who would send another joint expedition there nine months later.⁹¹ The positive response to the expedition nonetheless reflected an increased willingness to cooperate between the Britain and China, as well as other naval presences in South China, for suppressing piracy. The success of the Coulan expedition led Bowring to suggest that in the future mandarins might accompany British expeditions against pirates, and Ye Mingchen endorsed Bowring's plan.⁹² For his part, Ye also seemed more willing to accept British assistance against pirates. In the letter in which he praised the Coulan expedition, Ye requested to Bowring that 'your honourable country's warships blockading pirates in the Canton River... advance together with [Qing] troops and braves... to annihilate and capture pirates. This is a matter of importance'.⁹³ Ye's approval of the Coulan expedition and his invitation to the Royal Navy to advance up the Canton River into Chinese waters show that Qing officials were willing to cooperate with British counterparts in suppressing piracy and to allow British forces to operate in Chinese waters and territory. As in the case of He Fang during the Shap-ng-tsai expedition, however, this call for cooperation may have been motivated by desperation. Furthermore, despite the increased

⁸⁸ *O Boletim do Governo da Provincia de Macao, Timor, e Solor*, vol. 1, no. 7, 2 December 1854, 25, 27. Translation by author.

⁸⁹ Ye to Robertson, 7 December 1854, trans. M.C. Morrison, FO 228/173, 34.

⁹⁰ Ye to Bowring, XF 4/10/18 (7 December 1854), FO Consulates and Legation, China: Letter Books (230)/75, 61, TNA.

⁹¹ See combined account from *China Mail*, 9 August 1855 and *Peking Gazette*, 15 August 1855 in *Pirate Outrages*, ed. Sellick, 144-149.

⁹² Fox, *British Admirals*, 126.

⁹³ Ye to Bowring, XF 4/10/18 (7 December 1854), FO 230/75, 61.

cooperativeness between British and Qing officials for suppressing piracy, there was no consensus regarding who had jurisdiction over the prisoners from joint campaigns against pirates. Misunderstandings pervaded the development of a collaborative imperial hydrarchy between the Britain and China in the Canton Delta.

Misunderstandings in Collaborative Imperial Hydrarchy

The question of the extent of British and Qing jurisdiction over pirates had emerged as early as 1844. On 1 May, 'a pirate boat carrying about twenty men' plundered 12,000 rupees from 'a Chinese boat with a native crew, and guarded by five or six Soldiers' carrying the treasure to Stanley. Governor Davis reported that 'the soldiers were taken by surprise and overpowered, all of them killed or thrown overboard, and the whole of the treasure carried off'.⁹⁴ On 25 May, Hong Kong officials captured a criminal known as 'Chintae' in British sources (and variously as Chen Da, Chen Yada, Chen Tai, or Chen Yatai in Chinese sources). Colonial officials handed Chintae over to the Kowloon authorities, to whom he confessed his guilt. In his deposition, Chintae also provided a list of the names of his accomplices. Davis offered to allow him to act as an informant against his fellow pirates.⁹⁵ Davis requested that Qiyong 'take measures for the capture of those villains, and their adequate punishment as an example to others'. When seemingly no action was taken, however, and Hong Kong suffered another piratical attack on 17 June, Davis requested that 'Chintae may be returned for further examination'.⁹⁶ Qiyong responded by citing the Supplementary Treaty of the Bogue and observing that:

In cases implicating British merchants and mainlanders, the British merchants are under the jurisdiction of British officials, and Chinese are to be tried in China. This is how the cases of Fan Yasi and Wu Guanyu were handled. Both cases were of robbery with murder against British merchants. Their case is the same as that of Chen Yatai's [Chintae].⁹⁷

⁹⁴ Davis to Stanley, 17 May 1844, CO 129/6, 88-89.

⁹⁵ Davis to Qiyong, 31 May 1844, Chinese translator unknown, FO 682/1977/72.

⁹⁶ Davis to Qiyong, 20 June 1844 in CO 129/6, 287.

⁹⁷ Qiyong to Davis, DG27/5/6 (21 June 1844), FO 682/1977/87.

The British extradition of Fan and Wu to Kowloon helped motivate Qiying's insistence on exercising jurisdiction over Chintae, much to Davis's chagrin. The governor complained to Colonial Secretary Stanley that the governor-general

altogether evades the question of sending [Chintae] back according to the express agreement, and observes he will be executed with the other offenders. Though the ends of Justice will be equally answered, I cannot but look upon this as a breach of good faith, and shall be more cautious than ever as to the delivery of prisoners to the Authorities on the mainland.⁹⁸

An early attempt at collaborative imperial hydrarchy through the British provision of an informer on pirates thus fell through due to a perceived 'breach of good faith'.

Interestingly, the case of Chintae emerged again when pirates attacked consulate interpreter Thomas Taylor Meadows near Whampoa in 1848.⁹⁹ When four of the pirates were captured, Governor Bonham was distressed to learn that they had not been executed as they were only charged with being accomplices and could not be sentenced to summary execution. Bonham then referenced the case of Chintae, pointing out that Chintae and all others involved in the attack were executed in December 1844.¹⁰⁰ Xu Guangjin replied that Chinese law differentiated between different types of criminals, and that there were distinctions between the punishments for leaders and followers and for first-time offenders and repeat offenders. As not all the captured pirates who attacked Meadows were leaders or repeat offenders, they could not be punished as such.¹⁰¹ The case of Chintae and its subsequent uses thus serves as an example of the lack of agreement on the definition of piracy and how it should be dealt with between British and Qing officials, which proved an impediment to collaboration between the two for suppressing it.¹⁰²

Even in cases of cooperation, however, misunderstandings still occurred. Within a year of Bonham's complaint about the apparent leniency shown towards the pirates who attacked Meadows, British forces killed hundreds if not thousands of Chinese pirates in the expeditions against Chui Apo and Shap-ng-tsai. In both cases, the pirate leaders escaped, prompting British

⁹⁸ Davis to Aberdeen, 5 July 1844, CO 129/6, 362.

⁹⁹ See Bonham to Xu, 1 December 1848, Chinese translator unknown, FO 677/26, 133.

¹⁰⁰ Bonham to Xu, 3 January 1849, Chinese translator unknown, FO 677/26, 123.

¹⁰¹ Xu to Bonham, DG 28/12/21 (15 January 1849), FO 677/26, 121.

¹⁰² Chappell, 'Maritime Raiding', 476.

officials to request that the Chinese take measures for their arrest. In the case of Chui Apo, Bonham, citing Chui's guilt in murdering da Costa and Dwyer in Hong Kong, requested the criminal's extradition upon his capture.¹⁰³ After citing the Supplementary Treaty, Xu asserted that 'the murderer Chui Apo is a person of China. If he is captured by British officials, according to the treaty, he ought to be handed over to officers of China for trial'. He further posited that 'Chinese should be dealt with by Chinese officials' and cited the example of 'when many suspected of piracy were captured at Jinxingmen... the captured were forwarded to the Kowloon office and transferred to the Dapeng garrison, who forwarded them to Canton'.¹⁰⁴ Xu Guangjin thus understood the British extradition of pirates to Kowloon as affirming Qing jurisdiction over them.

In response, Bonham told Xu that British forces would continue taking actions against pirates if they were not brought to justice, adding the veiled threat that 'if accidents should happen through ignorance on our part, the blame must attach to the Chinese Viceroy for not having earlier caused this miscreant [Chui Apo] to be apprehended'.¹⁰⁵ The threat proved effective, and Xu eventually acknowledged that 'Chui Apo is a criminal because he has committed murder, a crime which is severe in all jurisdictions regardless of boundaries'. Since Chui was a Hong Kong criminal and 'all Hong Kong residents and those living there temporarily are all under British jurisdiction and administration', Xu conceded that 'China has not the slightest right to interfere or claim simultaneous jurisdiction' over Chui Apo.¹⁰⁶ Xu thus seemed, at least in the case of Chui Apo, to acknowledge piracy as a crime against more than just Chinese law and ceded jurisdiction over the case to British authorities in Hong Kong.

¹⁰³ Bonham to Xu, 2 October 1849, Chinese translator unknown, FO 677/26, 83.

¹⁰⁴ Xu to Bonham, DG 29/8/20 (6 October 1849), FO 682/1982/44.

¹⁰⁵ Bonham to Xu, quoted in *China Mail Overland Edition*, 1 November 1841, in *An Account*, ed. Scott, 100.

¹⁰⁶ Xu to Bonham, DG 29/9/2 (17 October 1849), FO 682/1982/48b.

Bonham considered Xu's cession of jurisdiction over Chui Apo an 'occasion to assert the inviolability of this territory, and our claim to exclusive jurisdiction in this island'.¹⁰⁷ A minute in this letter, however, states that:

the Article of the treaty for rendition of criminals only applies to "persons who have committed offences *against their own Government*". There is no provision in the Treaty for the surrender of a *Chinese Subject* amenable to Colonial jurisdiction for an offence committed in Hong Kong or elsewhere, who may have escaped to China.¹⁰⁸

Whitehall thus denied Bonham the right to exercise jurisdiction over Chinese pirates outside of Hong Kong. When Chui Apo was captured in Canton in 1851, however, his captors turned him over to the Hong Kong authorities for reward. Chui was tried on 10 March 1851 and sentenced to transportation for life. Before the sentence was carried out, he committed suicide in prison on 27 March.¹⁰⁹ Bonham's further request for the rendition of Shap-ng-tsai, for 'numerous acts of piracy and violence, committed in China and on the seas for many years past', was thus moot.¹¹⁰

Unlike Chui Apo, Shap-ng-tsai avoided capture. Although Chinese sources state that he had intended to surrender when the British attacked his forces in Annam, both Chinese and British sources report that he escaped during the attack. Shap-ng-tsai surrendered with 'a gang of 520 people and twenty ships with fifty-two iron and brass guns' at the end of 1849.¹¹¹ By June 1850, Shap-ng-tsai had 'defeated the pirate band of Huang Baidou, destroying ships and killing many pirates' on behalf of the Qing, encouraging many of the pirates to surrender and handing over captured guns and powder to Qing officials.¹¹² A separate memorial of the same date states that Shap-ng-tsai's actions against Huang Baidou took place in August 1849.¹¹³ This suggests that he may have already surrendered and been in the service of the Qing when Hay's flotilla attacked his fleet in Annam. If this were the case, rather than defeating a great pirate chieftain, the Royal Navy instead attacked a Chinese privateer in the Gulf of Tonkin. Despite

¹⁰⁷ Bonham to Earl Grey, 21 November 1849, CO 129/30, 327.

¹⁰⁸ Minute of 30 January 1850 in *ibid*, 330.

¹⁰⁹ Christopher Munn, *Anglo-China: Chinese People and British Rule in Hong Kong, 1841-1880* (Hong Kong: Hong Kong University Press, 2009; originally published by Curzon Press, 2001), 204-207.

¹¹⁰ Bonham to Earl Grey, 21 November 1849, CO 129/30, 327-328.

¹¹¹ Memorial by Xu Guangjin, DG 30/4/22 (2 June 1850), FO 931/1201.

¹¹² Memorial by Xu Guangjin and Ye Mingchen DG 30/4/22 (2 June 1850), FO 931/1202. See also Memorial by Xu Guangjin, DG 30/5/22 (1 July 1850), FO 931/1207.

¹¹³ Memorial by Xu Guangjin, DG 30/4/22 (2 June 1850), FO 931/1201.

this setback, Shap-ng-tsai was officially given a military position in the Qing navy on 5 July 1850 when the emperor issued an edict ordering that ‘Zhang Kaiping and ten others should be placed in military posts. They should be tasked with capturing pirates and handing them over to local authorities’. In the same order, Emperor Xianfeng worried that ‘though the captured pirates have surrendered, it is difficult to ensure they will not again be clouded in their mistaken ways’.¹¹⁴ The mention of relapse may explain the seemingly discrepant accounts of Shap-ng-tsai in Chinese sources.

British officers were not the only ones confused about the status of Chinese ‘pirates’. After approving of the victory of the international expedition against the Coulan pirates in 1854, Governor-General Ye wrote to D.B. Robertson, the British consul at Canton, that ‘the capture and destruction of a great number of pirates was such as to deserve the highest recommendation’. He further proposed cooperation between Qing and British forces against ‘the pirates on the river’.¹¹⁵ M.C. Morrison, the interpreter at the Canton consulate, pointed out, however, that the pirates in the river were part of a ‘Rebel Fleet’, which included ‘the piratical band whose headquarters were at Kao lan [Coulán], one of the places lately attacked by the squadron under Captain O’Callaghan of H.M.S. “Encounter”’. Morrison mentions that the pirates had initially gone up the river to surrender to the Qing, but decided to join the rebel leader, Chen Xianliang.¹¹⁶ Chen had previously stated to the British officials that ‘the object of our present warlike rising is to destroy the extortionate and oppressive officials and their myrmidons and to reestablish the ancient sovereignty of the *Ta Ming* [i.e. the Ming Dynasty]’. The rebellion was thus directed against the Qing, and Chen hoped amicable relations between the Chinese and British subjects could persist.¹¹⁷ It is unclear whether Ye saw this ‘Rebel Fleet’ as an insurrection against Qing rule or as its component pirates or indeed whether he considered that there was a

¹¹⁴ Imperial Edict to the Grand Council, DG 30/5/*dingsi* (5 July 1850), *QSL*, XF/ 9.

¹¹⁵ Ye to Robertson, 7 December 1854, translator unknown, FO 228/113, No. 115, 34.

¹¹⁶ Memorandum by M.C. Morrison, 9 December 1854, FO 228/113, No. 115, 56.

¹¹⁷ Chen to Robertson, 6 December 1854, trans. Morrison, FO 228/113, No. 115, 46.

difference. This difference, however, mattered to Governor Bowring who sought to adhere to the principle of neutrality. He responded to Ye's request for assistance by stating that 'whenever a foreign state encounters foreign enemies or internal troubles, England must keep its hands in its sleeve and observe from outside'. Britain would act only if British subjects were affected.¹¹⁸ In the increasing disorder of the 1850s, however, the distinction between pirate and rebel became increasingly blurred producing more misunderstandings in Anglo-Qing collaborative imperial hierarchy, and the unresolved issue of jurisdiction remained problematic. This lack of consensus would have tragic effects.

¹¹⁸ Bowring to Ye, 11 December 1854, Chinese translator unknown, FO 682/1987/69b.

Chapter 4

‘Differences Which Have Unfortunately Arisen’: Piracy and the Arrow War

The unrest in South China in the 1850s proved problematic for British and Qing authorities alike. In an attempt to uphold the law of nations, Britain declared neutrality during the Taiping Rebellion (1850-1864). The complexity and astonishing scale of rebellion, however, made it difficult for British officials to observe strict neutrality.¹ The ambiguous status of pirates contributed to this complexity. Pirates and rebels were often associated, if not one and the same, as the case of Chen Xianliang in the previous chapter shows. Neutrality prevented British forces from intervening against rebels, but international law permitted the Royal Navy to commit violence against pirates. The distinction between the two often blurred in the various uprisings in mid-nineteenth-century China. Qing officials could use this to their advantage, especially if British efforts suppressing piracy also helped quell rebellion. The limits of consular authority and the beleaguered Hong Kong criminal justice system meant that British authorities often continued to rely on Qing officials to deliver justice to pirates captured by the Royal Navy. The British rendition of pirates to courts in China seemed to reaffirm Qing jurisdiction over Chinese piracy. This clashed with British notions of universal jurisdiction and pirates as *hostes humani generis* and caused frictions in Anglo-Qing relations. As this chapter will show, British and Qing misunderstanding of each other's conception of and jurisdiction over piracy was one overlooked cause of the *Arrow* War (1856-1860). Though misunderstandings resulted in hostilities, Anglo-Qing collaborative imperial hierarchy would manage to survive and indeed thrive both during the conflict and in its aftermath.

For the sake of the convenience and efficiency of cooperation against pirates, many British and Qing officials often ignored the ways in which it clashed with their understandings of piracy and international law. Moreover, as rebellion exacerbated the problem of piracy, both sides

¹ See Stephen R. Platt, 'British Intervention in the Taiping Rebellion' in *Britain and China, 1840-1970: Empire, Finance and War* ed. Robert Bickers and Jonathan Howlett (London: Routledge, 2016), 41-57.

became increasingly desperate in their actions against pirates. Acting in exasperation, British and Qing authorities took some measures against piracy that violated the sovereignty and jurisdiction of the other party. British officials tightened their control over Hong Kong waters by excluding Qing and Taiping warships from Victoria Harbour and extended it through a system of registration and by the unilateral establishment of a system of convoy. Pressured by British complaints and the need to maintain order, Qing officials also enforced their maritime authority more forcefully. These desperate measures produced misunderstandings over the Qing detention of the *Arrow*, a Chinese-built, -owned, and -crewed lorcha with a colonial register from Hong Kong. Ostensibly, Qing officials' arrest of the ship's crew was a measure against piracy. Unfortunately, British authorities in South China saw the *Arrow* incident as a violation of their sovereignty, and intransigence on the part of British and Qing officials saw the affair escalate into another war.

Despite the outbreak of hostilities between the British and Qing empires, pirates remained a common enemy. In a testament to the resilience and importance of the collaborative suppression of piracy, British officials continued to deliver pirates to Qing authorities even after hostilities commenced. The persistence of this system of cooperation shows the continued limitations of British and Qing endeavours to suppress piracy and the need for cooperation even in time of war. The state of hostilities, however, disrupted Qing maritime control, even as the British officers continued to rely on the Chinese for assistance in dealing with pirates. Ye Mingchen's contumacy and hostility towards Britain, as well as affairs at Canton, eventually drove British forces and their French allies who joined the war to avenge the murder of the French missionary Auguste Chapeldaine in Guangxi to attack and occupy Canton.² The allies quickly realised that they could not administer so large a city by brute force alone and decided to rehabilitate some Qing officials to help maintain order. The joint administration of Canton allowed for a more direct cooperation between British and Qing authority that ultimately

² Steven A. Leibo, 'Not so Calm an Administration: The Anglo-French Occupation of Canton, 1858-1861', *Journal of the Royal Asiatic Society Hong Kong Branch* 28 (1988), 17. Robert Bickers, *The Scramble for China: Foreign Devils in the Qing Empire, 1832-1914* (London: Penguin, 2012), 145.

succeeded in largely suppressing piracy and bringing relative order to the surrounding waters. As this chapter will show, confusion over the status of Chinese pirates and jurisdiction over them, particularly in a period of rebellion, was a source of conflict between Britain and China; piracy remained a common menace to the British and Qing empires, which cooperated in its suppression, even when they were at war with each other. The *Arrow* incident revealed inconsistencies and tested the Anglo-Qing collaborative imperial hierarchy but did not break it.

Rebellion, Registration, and the Origins of the *Arrow* Incident

The British insistence on neutrality during the Taiping and other rebellions in China during the early 1850s made actions against piracy problematic. The distinction between pirate and rebel could be difficult to distinguish. Pirates frequently colluded with secret societies with revolutionary intent. These secret societies in turn helped fence pirated goods and sometimes even cooperated with pirates in raids.³ Qing officials did not necessarily distinguish between opportunistic pirates and those with political motivations, and the line between pirate and patriot became increasingly blurred in a period of mass rebellion. The porosity of this boundary and Britain's neutrality made it difficult for the Royal Navy to deal with Chinese piracy.⁴ British actions against pirates could become entangled with rebellions against the Qing. Such was the case with the Royal Navy's response to the Small Sword Uprising (1853-1855), which began in Amoy in May 1853. The uprising relied heavily on support from Straits Chinese, some of whom were British subjects, and pirates. In this instance, piratical activities of the Small Swords incurred the wrath of the Royal Navy, which used the suppression of piracy to justify actions

³ Robert J. Antony, *Like Froth Floating on the Sea: The World of Pirates and Seafarers in Late Imperial South China* (Berkeley: University of California at Berkeley Institute of East Asian Studies, 2003), 135-137. On the revolutionary intents of secret societies, see Frederic Wakeman, Jr. *Strangers at the Gate: Social Disorder in South China, 1839-1861* (Berkeley: University of California Press, 1966), 117-121.

⁴ Ivan Lee, 'British Extradition Practice in Early Colonial Hong Kong', *law & history* 6, no. 1 (2019), 90.

against a rebel movement in violation of professed neutrality.⁵ In a similar manner, despite British refusal to take action against Chen Xianliang's allegedly pro-Ming fleet in the Canton River on grounds of neutrality in December 1854, the Royal Navy made no qualms about attacking 'Lee Afyee, a principal leader of the Whampoa "patriots"', the following year.⁶ Lee commanded 'a very formidable Fleet', which 'caused an entire stoppage to the trade on the West Coast' of Guangdong. When Governor-General Ye Mingchen sent a naval force after Lee, the pirate cum rebel responded with 'open defiance'.⁷ In early August 1855, HMS *Rattler*, accompanied by three boats and a hundred men from USS *Powhatan*, went to Coulan to confront Lee Afyee and destroyed ten piratical junks, killing an estimated 500 pirates.⁸ A monument to the expedition still stands in the Hong Kong Cemetery in Happy Valley, testament to this Anglo-American attack on rebels under the guise of suppressing piracy.

Qing officials responded warily to such actions against pirates. Ye Mingchen treated British actions against pirates with ambiguity. As discussed in the previous chapter, he praised British officers for their 'sincere designs against a common foe' during the international expedition to Coulan in 1854.⁹ To his superiors, however, Ye proved less sure about Bowring's intentions. In the aftermath of the Anglo-American expedition to Coulan, he declared 'Chieftain Bowring is very opportunistic', and when 'the Chinese commander asks for assistance in punitive expeditions against pirates, it is not difficult to achieve their annihilation'. At the same time, however, Ye claimed that 'the barbarians are secretly providing material assistance to the

⁵ Murakami Ei, *Haiyang shi shang de jindai Zhongguo: Fujian ren de huodong yu Yingguo, Qingchao de yinying* [A Modern Maritime History of China: Fujianese Activity and British and Qing Responses], trans. Wang Shilun (Beijing: Social Sciences Academic Press, 2013), 206-212.

⁶ From an account compiled from *The China Mail*, 9 August 1855 and *Peking Gazette*, 15 August 1855 in *Pirate Outrages: True Stories of Terror on the China Seas*, ed. Douglas Sellick (Fremantle, Australia: Fremantle Press, 2010), 147. I have been unable to find the Chinese name of Lee Afyee.

⁷ D.R. Caldwell, 'An Account of the Principal Piratical Fleets and their Chiefs since the year 1849', 2 May 1859 in Admiralty Records (ADM) China Station Correspondence (125)/4, 393, The National Archives (TNA), Kew, UK. Caldwell gives the name of the pirate as 'Le Afai', but given the coincidence of his account and that of Lee Afyee in the *China Mail*, it is almost certain that they are one and the same.

⁸ Sellick, *Pirate Outrages*, 144, 149.

⁹ Ye to Bowring, Xianfeng reign (XF) 4th year/10th month/18th day (7 December 1854), Foreign Office Records (FO) Consulates and Legations, China: Letter Books (230)/75, 61, TNA.

rebellious bandits in the form of arms and munitions, and benefit from selling stolen goods'.¹⁰ Such suspicions may have driven Ye to attempt to exclude the Royal Navy and other foreign warships from the Bogue as early as 1852, when the vice-consul at Whampoa offered to send warships after pirates who attacked a British merchant vessel in the vicinity. Ye responded by declaring that 'the Bogue riverine space is in the jurisdiction of the provincial naval commander' who held sole authority in the region.¹¹ Two years later, however, when a more pressing naval threat appeared in the form of Ming loyalists under Chen Xianliang, Ye sought British and eventually American assistance against Chen and his pirate band.¹² In desperate situations, even the most xenophobic Qing officials were willing to seek foreign assistance against a common foe.

Qing authorities were not the only ones concerned with rebellion. Hong Kong's proximity to Kowloon meant events in one had implications for the other. In 1846, Qiying fretted that disturbances in Hong Kong would 'echo through Mount Kowloon'.¹³ The converse was also true eight years later when a rebellion in Kowloon would resonate on Victoria Peak.¹⁴ On 19 August 1854, a 'band of insurgents' captured 'the town of Cowloon'. William Caine, now the lieutenant-governor of Hong Kong, claimed that the 'attacking party are reported to be nearly all Haka men, most of them Stone Cutters from this Island and the vicinity'.¹⁵ The insurgents were members of a branch of the Triads from Huizhou, led by Luo Yatian, which included many labourers from Hong Kong among its followers.¹⁶ Luo and his gangsters ultimately forced the Kowloon authorities to abandon the Kowloon Walled City, with one Qing official reportedly taking refuge in Hong Kong. The fall of Kowloon disrupted the collaborative imperial

¹⁰ Memorial by Ye Mingchen XF 5/8/*wushen* (28 September 1855), *Chouban yiwu shimo* [Complete Records of Managing Barbarian Affairs, *YWSM*] XF *juan* 11/15-16, ed. Wenqing, Jiazhen, Baoyun, et al. in *Xuxiu siku quanshu* [Complete Books of the Four Storehouses, revised edition, *SKQS*], vol. 416 (Shanghai: Shanghai guji chubanshe, 1995).

¹¹ Ye to Elmslie, XF 2/9/8 (20 October 1852), FO Consulates and Legation, China: General Correspondence, Series I (228)/904, 27, TNA.

¹² Robertson to Bowring, 9 December 1854, FO 228/113, No. 115, 40-41.

¹³ Memorial by Qiying, DG 26/6/*gengwu* (8 August 1846), in *YWSM*, DG 76/3 in *SKQS*, vol. 416.

¹⁴ Victoria Peak, now known simply as the Peak, is the highest mountain on Hong Kong Island.

¹⁵ Caine to Grey, 21 August 1854, Colonial Office Records (CO) Hong Kong, Original Correspondence (129)/47, 36-37, TNA.

¹⁶ Liu Shuyong 'Tiandi hui gongzhan Jiulong Zhaicheng shishi kaoding [A Veritable Historical Inquiry into the Occupation of the Kowloon Walled City by Triads]', *Jindai shi yanjiu* 39, no. 3 (1987), 304.

hydrarchy between the two sides of Victoria Harbour. Caine lamented that while ‘Official Communication ha[d] always been carried on between the Police Authorities of this Colony and the Chinese Officers’ in Kowloon, the ‘connection thus long maintained exists no longer, and may cause some inconvenience, as we have been in the habit of handing to the Chief at Cowloon... Criminals charged with Offences against the laws of China’.¹⁷ Many of those criminals were pirates.¹⁸ Fortunately for the Hong Kong-Kowloon connection, a Qing force, led by the district magistrate and the colonel of Dapeng, accompanied by a group of mercenaries from Hong Kong, succeeded in recapturing the walled city at the end of August.¹⁹

The participation of Hong Kong residents on both sides of the rebellion in Kowloon, as well as the spread of the unrelated Taiping Rebellion elsewhere, catalysed the passage, less than five months later, of Ordinance No. 1 of 1855.²⁰ The ordinance insisted that ‘strict neutrality be maintained by all residents within the Colony of Hongkong between the different parties at present contending for dominion in the Empire of China’. To this end, residents of Hong Kong were forbidden to provide any assistance to ‘either the existing Chinese Government or any of the different factions at present engaged or who may be hereafter engaged in opposition to the said Government’. The ordinance further decreed that:

If any armed vessel whatsoever carrying any Chinese flag be found within any of the waters of this Colony and such vessel shall not depart therefrom within twenty-four hours after a notice to depart from these waters, signed by the Colonial Secretary, has been served on board thereof, such vessel shall, with everything found on board of it, be seized and sold or made forfeit to the Crown on due condemnation by the said Magistrates.²¹

Enforcing British neutrality during the Taiping and other rebellions included a stronger assertion of sovereignty over Victoria Harbour and Hong Kong’s territorial waters, from which Qing and

¹⁷ Caine to Grey, 21 August 1854, CO 129/47, 37-38.

¹⁸ Lee, ‘British Extradition Practice’, 97.

¹⁹ Xiao Guojian (Anthony K.K. Siu), *Jiulong chengzhai shi lunji* [Studies on the Kowloon Walled City] (Hong Kong: Hin Chiu Institute, 1987), 28-29. Liu, ‘Tiandi hui’, 305.

²⁰ The Kowloon insurgents were Triad members operating independently of and hundreds of miles away from the nearest Taiping army, which was stationed on the border between the provinces of Hunan and Hubei. See Liu, ‘Tiandi hui’, 303.

²¹ Ordinance No. 1 of 1855, ‘An Ordinance to enforce neutrality during the contest now existing in China’, 15 January 1855. Accessed through ‘Historical Laws of Hong Kong Online’: <http://oelawhk.lib.hku.hk/exhibits/show/oelawhk/home>

rebel armed ships were now forbidden. In September 1856, in accordance with this prohibition, Governor Bowring ‘compelled several Junks having the Flag Taipingwang [leader of the Taipings] to quit [Victoria] harbour’ in order to uphold Hong Kong’s neutrality. He further added that ‘I could find no evidence of piratical intention or else I would have proceeded to confiscate the Junks’.²² Despite a proclamation of neutrality, the Hong Kong authorities were still keen to act against pirates, an identification that could give British officials jurisdiction over Chinese rebels. Indeed, as shown in the cases of Lee Afyee and the Small Swords, plunder at sea, even when politically motivated, could justify British circumvention of neutrality and recourse to force.

Rebellion also disrupted Qing maritime control with implications for Hong Kong. When the Small Sword rebels, who included many dislocated Cantonese boatmen in their ranks, captured Shanghai and destroyed the Qing customs house there, foreign merchants feared that the nonpayment of import taxes would violate the treaties. As a compromise, the consuls set up a foreign-run customs house to collect duties on behalf of Qing officials until their recovery of Shanghai. This system laid the foundation for the Imperial Maritime Customs, an important, foreign-run component of the Qing bureaucracy.²³ The concern with protecting legal trade, particularly in the chaos of rebellion, also affected Hong Kong. Hoping ‘that legal trading should be protected and illegal trading prevented’, the Hong Kong government passed Ordinance No. 4 of 1855, which established a system of registration for colonial shipping. According to the ordinance only ships with approved registration could trade in Hong Kong. Chinese in Hong Kong could obtain colonial registers ‘provided the person or persons applying as owners be registered lessees of Crown lands within this Colony’.²⁴ These registers gave Hong Kong-

²² Bowring to Parkes, 11 September 1856, FO 228/212, 117.

²³ Jonathan Chappell, ‘Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842-1869’, *The International History Review* 40, no. 3 (2018), 484. Bickers, *Scramble for China*, 127. John King Fairbank, *Trade and Diplomacy on the China Coast: The Opening of the Treaty Ports, 1842-1854* (Cambridge, MA: Harvard University Press, 1964; originally published in two volumes by Harvard University Press, 1953), 439-461.

²⁴ Ordinance No. 4 of 1855, 3 March 1855. Accessed through ‘Historical Laws of Hong Kong Online’: <http://oelawhk.lib.hku.hk/exhibits/show/oelawhk/home>

registered vessels the protection of the British flag.²⁵ Gerald Graham went so far as to claim that the measure turned the Hong Kong Chinese into 'British Chinese'.²⁶

The willingness of British colonial and consular authorities to support the 'British Chinese' was put to the test when the Canton authorities seized two colonial-registered lorchas for smuggling salt in May 1856. British authorities demanded restoration of the lorchas and threatened to call on the Royal Navy to exact retribution. Pointing out that 'the right of confiscation does not extend to the vessels but only to the Cargo', Bowring insisted that in cases of Qing seizures of ships with colonial registers on charges of smuggling, British officials should demand the ships' return, after which the Hong Kong authorities would prosecute the owners for 'violation of the conditions on which the Register or Sailing letter may have been granted'.²⁷ Britain thus zealously guarded its imperial hierarchy in Chinese waters, which it extended over Hong Kong-registered Chinese ships by colonial law.

Qing authorities eventually acceded to the extraterritorial jurisdiction that British authorities exercised over smuggling craft. By 1856, Qing customs officials were accustomed to detaining lorchas flying foreign flags on suspicion of salt smuggling without insult to the flag or violation of extraterritorial privileges.²⁸ Piracy, however, proved a different matter. While officials in late imperial China initially saw smuggling as a maritime crime akin to piracy, by the mid-nineteenth century, the problem of piracy had worsened to the point that British and Qing officers took increasingly drastic measures to suppress it.²⁹ In 1854, the British consul at Canton requested that Qing officials organize convoys between Canton and Whampoa.³⁰ Ye Mingchen

²⁵ Bruce Elleman, 'The Taiping Rebellion, Piracy, and the Arrow War', in *Piracy and Maritime Crime: Historical and Modern Case Studies*, ed. Bruce Elleman, Andrew Forbes, and David Rosenberg (Newport, RI: Naval War College Press, 2010), 54. Christopher Munn, *Anglo-China: Chinese People and British Rule in Hong Kong, 1841-1880* (Hong Kong: Hong Kong University Press, 2009; originally published by Curzon Press, 2001), 272.

²⁶ Gerald S. Graham, *China Station: War and Diplomacy, 1830-1860* (Oxford: Clarendon Press, 1978), 300.

²⁷ Bowring to Winchester, 26 May 1856, FO 228/212, 62-64.

²⁸ John Y. Wong, *Deadly Dreams: Opium, Imperialism, and the Arrow War (1856-1860) in China* (Cambridge: Cambridge University Press, 1998), 56.

²⁹ Anthony Reid, 'Violence at Sea: Unpacking "Piracy" in the Claims of States over Asian Seas' in *Elusive Pirates, Pervasive Smugglers: Violence and Clandestine Trade in the Greater China Seas*, ed. Robert J. Antony (Hong Kong: Hong Kong University Press, 2010), 17-18.

³⁰ Robertson to Ye, 3 August 1845, FO 228/113, 51-52.

refused to assent to this request.³¹ By 1856, however, piracy had become so problematic that the Royal Navy arranged its own system of convoy on the China coast to protect shipping from ‘the abominable outrages which have so long impeded the free course of Trade between the Ports open to Foreign Commerce’. Rear-Admiral James Stirling announced that one warship would sail at the first of each month, calling at each of the treaty ports and Hong Kong. Such warships had ‘orders to take under Convoy all Vessels of every Nation, who may see fit to avail themselves of the occasion thus afforded to pass in safety from Port to Port’.³²

Piracy in the Canton delta became such a dire problem that despite previously refusing to organize a system of convoy, Ye Mingchen tacitly accepted the system proposed by Stirling. Though Ye remarked that he had issued orders to local Qing officials and naval forces to cooperate against piracy and that ‘continuous reports of captures of pirates are made, and the number captured is excessive’, he nonetheless proved willing to accept British convoys. He ordered all coastal military and civil official to give notice of the convoys to allay any suspicions.³³ Though Anglo-Qing cooperation against piracy became more frequent after the Shap-ng-tsai expedition in October 1849, the British convoy system marked a unilateral action for protecting the China coast against pirates who were often implicated in rebellion. British actions, which sometimes violated neutrality, and the need to maintain order may have shamed or pressured Qing officials into increasing the zealotry of their own efforts. It was in this context that Qing soldiers detained twelve members of the Chinese crew of the Hong Kong-registered lorcha, *Arrow*, in Canton on 8 October 1856.

‘The “Arrow” Outrage’

Harry Parkes, the British consul at Canton, complained about the *Arrow* incident to Ye Mingchen. Parkes claimed that the lorcha, allegedly flying the British flag, was anchored in the waters of Canton when a Qing vessel under the command of Commandant (*shoubei*) Liang

³¹ Robertson to Bowring, 6 September 1854, FO 228/113, 102.

³² Stirling, ‘Public Notice’, 1 January 1856, Admiralty Records (ADM) China Station Correspondence (125)/1, TNA. The notice appeared in the *Hong Kong Government Gazette*, 5 January 1856.

³³ Ye to Winchester, XF 6/4/3 (6 May 1856), FO 228/904, 283-284.

Guoding pulled alongside her. Li Rongsheng and several other soldiers boarded the *Arrow* and forcibly detained twelve of her crew. Parkes further stated that the Qing soldiers hauled down the British flag, a ‘national insult of the highest degree’.³⁴ Parkes told Bowring that he considered the affair a ‘significant insult’.³⁵ John Wong discusses in detail the circumstances of the detention of the crew of the *Arrow* and challenges the veracity of British assertions that the flag suffered insult in the scuffle. He also provides meticulous analysis of many other latent forces, including personalities, British politics, and economics that helped turn the *Arrow* incident into the flashpoint of the *Arrow* War.³⁶ Nonetheless, a Qing exercise of imperial hierarchy over the *Arrow* was the most salient provocation that justified armed retaliation and another war in China. Though the alleged insult to the British flag and the many other causes Wong discusses all contributed to the outbreak of war, the immediate pretext for the *Arrow* incident was a Qing attempt to detain the vessel’s Chinese crew on suspicions of piracy. The arrest of the crew had implications in British, Qing, and international law, and both sides’ responses reveal a continued lack of understanding over each other’s authority and jurisdiction over pirates.

Much about the *Arrow* was suspect, and its ambiguity vis-à-vis British and Qing jurisdiction caused confusion. Ye Mingchen asserted that Su Yacheng, a Qing subject, built the *Arrow*, which was completed on 7 August 1854.³⁷ The following year, Qing officials decried ‘treacherous people’ building lorchas and seeking licences from foreigners. Noting that ‘some lorchas are selling smuggled salt and goods, thus causing loss in revenue’ and that ‘others opportunistically commit piracy against merchants’, the judicial commissioner (*tixing ancha shi si*) at Canton forbade the construction of lorchas, which were considered ‘barbarian ships’, and re-issued notices against smuggling and piracy.³⁸ Shortly before this prohibition, a Hong Kong

³⁴ Parkes to Ye, 8 October 1856, Chinese translator unknown, FO 228/904, 316-317. The English version can be found in FO 228/213, 72-74.

³⁵ Parkes to Bowring, 8 October 1856, FO 228/213, 69.

³⁶ See Wong, *Deadly Dreams*. The *Arrow* War was known as the Second China War and is now often called the Second Opium War. See also James Hevia, *English Lessons: The Pedagogy of Imperialism in Nineteenth Century China* (Durham, NC: Duke University Press: 2003), 31.

³⁷ Ye to Parkes, XF 6/9/12 (10 October 1856), FO 228/904, 319.

³⁸ Shen to Alcock, XF 5/9/28 (4 November 1855), FO 228/904, 260-261.

resident purchased the *Arrow* and registered her there on 27 September 1855.³⁹ Ye acknowledged that the *Arrow* had ‘received a licence from the foreigner *Bo-lu* [Block]’ and that it had a foreign master. Given the prohibition on Qing subjects building lorchas and obtaining foreign registers, however, Ye refused to acknowledge foreign ownership of the *Arrow*. He restated his assertion that the crew of the *Arrow*, if not the ship itself, fell under Qing jurisdiction by claiming that there were pirates among the detainees. In support of this assertion, he provided a deposition from Huang Liankai, who claimed to recognize pirates who attacked his ship in the seas of Sanzhoutang off Xinning on 6 September 1856 among the crew of the *Arrow*. Huang reported this matter to Qing naval officials, who proceeded to arrest twelve crewmen. Huang’s claims were corroborated by a deposition from Wu Yaren, one of the detainees from the *Arrow*, which stated that Li Mingtai, alias Liang Mingtai, and Liang Jianfu joined the crew of the *Arrow* at Macau on 21 September 1856; Wu deposed that Mingtai admitted that he committed piracy along with Jianfu and a gang of over thirty pirates at Sanzhoutang. Ye concluded from the depositions that ‘there were criminals among the detainees, and they were not inappropriately arrested’. In asserting jurisdiction over this incident of piracy, Ye insisted on detaining Wu Yaren, Li Mingtai, and Liang Jianfu, but had the remaining nine detainees returned.⁴⁰ Notably, Ye made no mention of the *Arrow*’s flag at all. For him, the incident was a disagreement over jurisdiction and had nothing to do with national insult.

Parkes was indignant at Ye’s response to ‘the “Arrow” outrage’: ‘Nothing it appears to me can be more unsatisfactory than the reply of the Imperial Commissioner who offers no redress or apology but upholds the acts of his officers throughout, and denies that the Lorch is British-owned’. He pointed out that in the *Arrow*’s expired register, ‘she is therein said to belong to “Fong A Ming of Victoria Hong Kong, Chinese Trader”, but the place and date of her build is not given’. He further pointed out that ‘Mr. Block (Danish Consul at Hongkong)’ hired ‘Thomas Kennedy, a native of Belfast, and a very respectable man of his class’, to act as the

³⁹ Wong, *Deadly Dreams*, 43.

⁴⁰ Ye to Parkes, XF 6/9/12 (10 October 1856), FO 228/904, 319-320.

Arrow's 'nominal master'.⁴¹ Parkes's superior, John Bowring, admitted that technically 'the *Arrow* had no right to hoist the British Flag. The licence to do so expired on the 27 of September during which period she has been out of our protection'. He insisted, however, that the Qing authorities would not have known about the expired register and did not have 'any other ground for interference than the suspicion that the owner is not a British Subject'. He also believed Qing officers violated Article IX of the Supplementary Treaty of the Bogue in not requesting the rendition of Chinese on a British vessel through British consular authorities.⁴² For Parkes and Bowring, key 'personalities of imperialism' in advocating for war, the crux of the *Arrow* outrage lay in the insult to the vessel's flag, which they asserted gave it British protection.⁴³ Little is made of the fact that the alleged insult occurred during Qing officials' arrest of pirates in Chinese waters. As Ye's initial reply to Parkes's grievances does not even mention a flag, he likely understood the incident differently.

Parkes repeated his complaints and further demanded 'an apology for what has taken place, and an assurance that the British flag shall in future be respected'.⁴⁴ In response, Ye repeated that the *Arrow* was built by Su Yacheng and had merely received a licence from a foreign firm. He insisted that the 'lorcha is not the property of foreigners' and asserted Qing jurisdiction, claiming to 'have already issued orders for an investigation' when Qing officials boarded the *Arrow*. In the first instance in which he addressed the issue of the *Arrow*'s flag, Ye stated that when Qing officials boarded the *Arrow* to make arrests 'they did not see any foreigners on board the ship, and the ship was not flying any flag'. He considered that in this instance, 'Chinese officers did not without cause board a foreign lorch and make arrests'.⁴⁵ In Ye's understanding, the fact that the *Arrow* was built by a Qing subject and had no foreigners on board meant she fell under Qing jurisdiction despite holding a foreign register and having a foreign flag, which may not have even been flying.

⁴¹ Parkes to Bowring, 10 October 1856, FO 228/213, 81-83.

⁴² Bowring to Parkes, 11 October 1856, FO 228/212, 131.

⁴³ Wong, *Deadly Dreams*, 67-108.

⁴⁴ Parkes to Ye, 12 October 1856, FO 228/213, 104.

⁴⁵ Ye to Parkes, XF 6/9/16 (14 October 1856), FO 228/904, 325.

The collaborative imperial hierarchy for suppressing piracy that had haphazardly emerged between the British and Qing since the colonization of Hong Kong provides insight into the two sides' misunderstandings during the *Arrow* incident. Since at least 1842, British officials had been handing captured Chinese pirates to Qing authorities, particularly at Kowloon. Xu Wenshen, the first deputy magistrate of Kowloon, likely mediated many of these interactions. At the time of the *Arrow* incident, he had been promoted to magistrate of Nanhai and was the official initially deputed to return nine of the twelve detainees from the *Arrow*. Given Xu's familiarity in dealing with pirates extradited by the British from Hong Kong, it may not be coincidental that Ye Mingchen sent him to attempt to resolve the *Arrow* 'outrage'. By deputing Xu to deal with the matter of arrests and renditions, Qing authorities treated the *Arrow* incident in a similar manner to the British capturing Chinese pirates and delivering them to Kowloon.

The British practice of handing captured Chinese pirates to Qing officials likely affected Qing understandings of the events of 8 October 1856. Despite the occasional British reprimand, such renditions reaffirmed the Qing authorities' belief that they alone had jurisdiction over maritime crimes, including piracy, committed by Chinese subjects. When British officials did attempt to claim jurisdiction over Chinese pirates, they often used the language of *hostis humani generis* in the law of nations to do so. British authorities asserted a right, through universal jurisdiction, to deal with Chinese pirates, portrayed as a common enemy of both Britain and China. Moreover, they repeatedly called for their Qing counterparts to take stronger actions in suppressing piracy. Contrary to British complaints, Qing efforts against pirates were not entirely fruitless. Chen Yu-hsiang points out that Qing officials reported capturing an average of about 1,000 pirates a year in the mid-nineteenth century.⁴⁶ Though rarely mentioned directly in the reports, these numbers likely included pirates captured by the Royal Navy and delivered to Qing authorities, a tacit recognition of the British contribution to suppressing piracy.⁴⁷ In this

⁴⁶ Chen Yuxiang (Yu-hsiang), 'Qingdai zhongye Guangdong haidao zhi yanjiu (1810-1885) [A Study of Piracy in Mid-Qing Guangdong, 1810-1885]', *Chengda Lishi Xuebao* 34 (June 2008), 121.

⁴⁷ For example, a report of the Shap-ng-tsai expedition mentions British involvement, but credits Huang Kaiguang for all captures. Memorial by Xu Guangjin, Daoguang reign (DG) 30/4/22 (2 June 1850), FO Guangdong Provincial Archives (931)/1201, TNA. The *China Mail* lamented that 'Celestials receive

context, Ye was understandably confused when an attempt to arrest pirates, a common enemy of Britain and China, met with such furious reprimands. Given British pressures for Qing action against pirates, and the established British practice of extraditing pirates to Qing authorities, Ye insisted on retaining jurisdiction over the two pirates captured from the *Arrow*.⁴⁸ For Qing officials, the outrage of the *Arrow* incident lay in a British attempt to block a Qing exercise of authority over Chinese pirates on a Chinese ship in Chinese waters.

Unfortunately for Ye Mingchen, by 1856 British authorities were desperate to increase their access to China's market and believed the Qing government was not upholding treaty stipulations. Ye had rejected treaty revision, leaving war as the only recourse Parkes and Bowring believed they had left. While Ye saw the *Arrow* incident as a matter of suppressing piracy, British authorities saw it as a justification for a war to expand British trade interests in China. This may have driven Parkes's aggressiveness in using the *Arrow* 'outrage' as a pretext for war.⁴⁹ On 14 October 1856, he met with Commodore Charles J.B. Elliot, who agreed with Parkes on the injustice of the *Arrow* affair and seized 'an Imperial War Junk'.⁵⁰ The vessel turned out to be 'a cargo vessel belonging to a mainland merchant'. Ye, not understanding that the vessel was taken as a form of reprisal, accused Parkes of 'ordering needless trouble to this innocent vessel', but also offered to return all the detainees from the *Arrow*, including the alleged pirates. He further conceded that 'if there are pirates hidden on board foreign ships, the consul should be notified and cooperate in dealing with the matter'. He still, however, insisted that the *Arrow* was a Chinese ship.⁵¹ Ye's statement reveals continued confusion in the matter of jurisdiction over pirates, and his concessions proved too little too late. The day before Ye wrote his letter, Parkes met with Bowring and Rear-Admiral Michael Seymour in Hong Kong. Seymour left for Canton, and his forces began bombarding forts guarding the approach to the

all the credit' for actions against pirates in which 'English cruisers have a great share'. *China Mail*, vol. 4, no. 189, 28 September 1848, 155.

⁴⁸ Wong, *Deadly Dreams*, 113.

⁴⁹ Ibid, 26-29, 82-83. Idem, 'The Limits of Naval Power: British Gunboat Diplomacy in China from the *Nemesis* to the *Amethyst*, 1839-1949', *War & Society* 18, no. 2 (October 2000), 103.

⁵⁰ Parkes to Bowring, 14 October 1856, FO 228/213, 109.

⁵¹ Ye to Parkes, XF 6/9/23 (21 October 1856), FO 228/904, 332-333.

city, capturing them 23 October.⁵² Ye wrote to Parkes stating that for the sake of ‘good relations with your honourable country’, Qing forces did not counter the attacks on the forts. Even in the face of British bombardment, however, Ye still insisted that as the *Arrow* was anchored in Chinese waters and originally belonged to a Qing subject, he had done nothing wrong in arresting pirates onboard.⁵³

Ye Mingchen’s forbearance would be tested as the cannonade continued. On 24 and 25 October, the Royal Navy captured the ‘forts in the immediate neighbourhood of the City of Canton’.⁵⁴ On 26 October, Ye issued a proclamation that the ‘English barbarians’ attack on and disturbance of Canton, which has injured soldiers and people, is a most detestable crime’. In retaliation, he called on the populace of Canton to unite with Qing forces to attack ‘English bandits’ and offered 30 *yuan* for British heads.⁵⁵ Parkes saw this as a declaration of hostilities against Britain, claiming that Ye ‘considered himself at war with the English’.⁵⁶ On 28 October, Royal Navy guns breached the walls of Canton city, and ‘at about 3 P.M. the English colors were planted on the Wall by Captain Bate’.⁵⁷ Three days later, the ‘Gentry and Scholars of Canton’, seeking reconciliation, issued a notice proclaiming that ‘the military officers employed in search for robbers “do not understand the Treaties”’, conceding that Qing officials were in the wrong in the *Arrow* affair.⁵⁸

But Governor-General Ye remained adamant, continuing to insist that the *Arrow* ‘was not a foreign ship’ and that the ‘arrests were not made by mistake’.⁵⁹ He asserted that the seizure of the *Arrow*’s crew was a matter of Qing jurisdiction and rejected British infringement. By 11 November, Ye declared the cannonade of Canton an act of hostility and cited the indignation

⁵² Bowring to Clarendon, ‘Proceedings of Her Majesty’s Naval Forces at Canton from 20th October to 14th November, 1856’, vol. 1, FO General Correspondence before 1906, China (17)/260, 19-20, TNA.

⁵³ Ye to Parkes, XF 6/9/26 (24 October 1856), FO 228/904, 341.

⁵⁴ Bowring to Clarendon, ‘Proceedings’, FO 17/260, 20.

⁵⁵ Proclamation by Ye, XF 6/9/29 (27 October 1856), FO 228/904, 345.

⁵⁶ Parkes to Bowring, 28 October 1856, FO 17/260, 99.

⁵⁷ Parkes to Bowring, 29 October 1856, FO 17/260, 111.

⁵⁸ Bowring, ‘Proceedings’, FO 17/260, 24-25.

⁵⁹ Ye to Seymour, XF 6/10/8/ (3 November 1856), FO 230/75, 85.

of the city's residents as justification for his refusal to submit to British demands.⁶⁰ With British and Qing officials acknowledging each other's engagement in hostilities, the *Arrow* War had unofficially begun.⁶¹ More than a year after the commencement of hostilities, James Bruce, the Earl of Elgin and Kincardine and new British plenipotentiary in China, noted that the war was the result of 'differences which have unfortunately arisen between certain of the authorities and subjects of her Majesty the Queen of Great Britain and certain of the authorities and subjects of his Majesty the Emperor of China'.⁶² British and Qing understandings of piracy and the extent of their jurisdiction over it was one such unfortunate difference.

Continuation and Change in Collaborative Imperial Hydrarchy

A day after acknowledging British hostility, Ye Mingchen wrote to John Bowring reaffirming that he considered the *Arrow* incident a matter of 'arresting Chinese criminals' and continued to insist that the *Arrow* was a Chinese vessel under Qing jurisdiction which had merely 'borrowed a flag on false pretences'. He further mentioned that he had deputed Xu Wenshen to deal with the matter and lamented Harry Parkes's refusal to deal with Xu especially as 'that magistrate is commissioned by China to handle foreign affairs'.⁶³ Ye acknowledged Xu's experience with dealing with British officials. He reported that Xu 'had been managing barbarian affairs for a long time' and that while Xu 'was serving as the Kowloon deputy magistrate, every time he met with the chieftain of the barbarians at Hong Kong, they often came to an agreement, and there was mutual trust'.⁶⁴ Xu's successors as deputy magistrate of Kowloon continued this close association with colonial officials in Hong Kong even after the commencement of hostilities.

⁶⁰ Ye to Seymour, XF 6/10/14 (11 November 1856), FO 230/75, 87.

⁶¹ The *Arrow* War was never officially declared and remained undeclared to its end in 1860. Wong, *Deadly Dreams*, 53. Anthony Preston and John Major, *Send a Gunboat: The Victorian Navy and Supremacy at Sea, 1854-1904*, revised edition (London: Conway, 2007), 40.

⁶² Elgin to Ye, 12 December 1857, quoted in George Wingrove Cooke, *China: Being "The Times" Special Correspondent in the Years 1857-58* (London: G. Routledge & Co., 1858), 260. Elgin is discussed in more detail in Chapter Five.

⁶³ Ye to Bowring, XF 6/10/15 (12 November 1856), FO 230/75, 88.

⁶⁴ Memorial by Ye Mingchen, XF 7/12/*gengxu* (17 January 1858), *YWSM*, XF 17/28 in *SKQS*, vol. 416.

In the months before the *Arrow* incident, British warships were still taking actions against Chinese pirates to Qing indifference if not approval. In August 1856, Captain Keith Stewart in HMS *Nankin*, accompanied by HMS *Coromandel*, made three expeditions against pirates in the Canton Delta. These sallies consisted of an expedition to Coulan and two to Mirs Bay, one of which involved the participation of the Spanish warship *Reina de Castilla*. During these expeditions, nine pirate junks were destroyed and one captured and taken to Hong Kong.⁶⁵ As the pirates were captured outside of Hong Kong's territorial waters, they were beyond British Admiralty jurisdiction and likely handed over to Qing authorities at Kowloon.⁶⁶ During the expedition to Coulan, Stewart fell in with Qing forces engaging 'Rebels'. On learning the purpose of Stewart's presence, the Qing officers 'appeared quite satisfied and were quite indifferent' to his actions against pirates.⁶⁷ Despite the commencement of hostilities between Britain and China in the vicinity of Canton in October 1856, that December, the Admiralty expressed 'satisfaction' at the result of Stewart's proceedings.⁶⁸ Qing sanction and Admiralty approval of Royal Navy actions against pirates less than two months before the *Arrow* incident suggests that the system for cooperating against piracy, which had developed between the British and Qing local officials, remained strong despite the increasing tensions in Sino-British relations. Indeed, even the outbreak of hostilities at Canton did not prevent the continuation of a collaborative imperial hydrarchy elsewhere in South China.

Qing officials continued to send knowledgeable officers to help guide Royal Navy expeditions against pirates throughout the *Arrow* War.⁶⁹ Reciprocally, British officials continued sending pirates to Kowloon despite the outbreak of hostilities. In response to 'repeated complaints... made of the obstruction caused to market vessels supplying this Colony by a Piratical Squadron cruising near the entrance of our Harbor', Governor Bowring requested that Rear-Admiral Seymour send a force to deal with them. On 16 February 1857, Seymour

⁶⁵ Stewart to Seymour, 18 August 1856, ADM 125/1, 233-237.

⁶⁶ Grace Estelle Fox, *British Admirals and Chinese Pirates, 1832-1869* (London: K. Paul, Trench, Trubner & Co., 1940), 90-91.

⁶⁷ Stewart to Seymour, 18 August 1856, ADM 125/1, 236.

⁶⁸ Admiralty to Seymour, 9 December 1856, ADM 125/1, 487.

⁶⁹ Fox, *British Admirals*, 126. Preston and Major, *Send a Gunboat*, 44.

dispatched HMS *Niger* and HEICS *Auckland* to go after the pirates. The two ships succeeded in capturing eight piratical vessels and seventy-three pirates. Investigation by the chief magistrate revealed that 'evidence of repeated acts of piracy could be produced against these men and that on the very day preceding their capture they had murdered ten of their prisoners in cold blood'. Bowring, however, surmised that:

were the Criminals tried before the Supreme Court capital convictions would have ensued in a great number of cases which must either have been carried into effect in a wholesale manner or a distinction drawn without any sufficient cause between these Capital Convicts and others who have already undergone the extreme penalty of the Law. Furthermore the whole administration of Criminal Justice in cases connected with Piracy is so defective from the difficulties attending interpretation in various dialects, keeping the witnesses in attendance and various other causes that I felt convinced the trial of such a great number should be avoided if possible.

Many of the problems that had impeded the Hong Kong criminal justice system's ability to effectively prosecute pirates persisted at the time of the *Niger* and *Auckland* expedition. Bowring thus resorted to the established practice for dealing with such matters and 'caused the 73 prisoners in question to be handed over to the Chinese Authorities at Cowloon who received them from the Colonial Police in a most satisfactory manner'. He qualified his actions by stating 'I caused these men to be handed simply as Pirates and Murders without reference to their connection to the civil discord existing in China as I carefully avoid every act that can look like a violation of the neutrality I would preserve'.⁷⁰ Bowring makes no mention of Britain's war with China at the time.

He must have been aware of the state of Anglo-Qing relations when he had the seventy-three pirates delivered to Kowloon nearly half a year after the bombardment of Canton. By that time, French and American naval forces had withdrawn from Canton to Hong Kong. Needing forces to both protect Hong Kong and attack Canton, Bowring had asked the governor of the Straits Settlements for reinforcements a month before the pirates' capture.⁷¹ His own insistence on obtaining permission for British subjects to enter the city of Canton, which he saw as a condition of the treaties, played an important role in turning the *Arrow* incident into a

⁷⁰ Bowring to Labouchere, 28 February 1857, CO 129/62, 338-339.

⁷¹ Graham, *China Station*, 311-312.

justification for commencing hostilities.⁷² That Bowring extradited pirates to Kowloon during a war he helped cause testifies to the resilience of the *modus vivendi* between Hong Kong and Kowloon for dealing with pirates. Hong Kong authorities needed the efficiency of the Qing criminal justice system to effectively prosecute piracy, a necessity that did not recede when Britain and China were unofficially at war.

Though Bowring made no mention of the war in his report of the rendition of pirates to Kowloon, officials at the Colonial Office, noting the state of hostilities extant when the pirates were extradited, decried the impropriety of the measure. One believed that Bowring had shirked his duty by delivering the pirates to Kowloon, pointing out that ‘one great object of establishing a Supreme Court at Hong Kong’ was to deal with ‘piracy and murder on the sea’ including that committed by ‘persons who, though not apparently colonial residents, were engaged in traffic with the Colony’ regardless of ‘the present anomalous state of affairs’.⁷³ He further stated that even in time of war, Hong Kong’s Supreme Court had jurisdiction over piracy committed ‘either in the waters of the Colony’ or ‘on the high seas’.⁷⁴ Ultimately, the Colonial Office reprimanded Bowring for calling on ‘the armed forces of Her Majesty... to arrest a body of pirates, who had been preying on the lives & properties of the people of Hong Kong’ and then

hand[ing] them over to Chinese Officials under circumstances, which must make it very doubtful whether they will be brought to justice & which even have room for a fear, that they may be again employed in committing acts of atrocity, & perhaps against the persons & property of British subjects.⁷⁵

Another Colonial Office official elaborated, minuting that Bowring’s rendition of pirates to an enemy official in wartime was ‘a most extraordinary proceeding’ and that ‘at this moment in China... Commissioner Yeh [Ye Mingchen] will enrol these pirates & condone any number of

⁷² Wong, *Deadly Dreams*, 88-97.

⁷³ Minute by Merivale, 6 May 1857, addenda to Bowring to Labouchere, 28 February 1857, CO 129/62, 341-342.

⁷⁴ Minute by Merivale, 7 May 1857, addenda to Bowring to Labouchere, 28 February 1857, CO 129/62, 342.

⁷⁵ Colonial Office to Bowring, 9 June 1857, CO 129/62, 346-347.

past murders on condition of their killing' British subjects.⁷⁶ The tensions of suppressing piracy in the vicinity of an enemy would emerge more clearly in later expeditions.

One month after the expedition that captured the seventy-three pirates contentiously handed over to the Kowloon authorities, Commander Charles Forsyth of HMS *Hornet*, accompanied by Daniel Caldwell and a Chinese victim of piracy, went after a 'Piratical Fleet' which had taken the victim's vessel. The boats of the *Hornet* encountered the 'Pirate Fleet consisting of large Lorchas and Junks, seventeen in number' at 'Sandy Bay, St. Johns Island [Shangchuan]', to the west of Macau. Being vastly outnumbered, Forsyth 'thought a diversion might be made in our favour by landing' and scaled the heights overlooking the pirate fleet's anchorage with a party of Marines who 'opened a brisk fire with Rifles, whilst the Gun and Rocket Boat engaged in flank'. Fire from the *Hornet*'s men and boats eventually caused the pirates, reportedly three hundred and fifty in number, to flee ashore. On boarding the abandoned vessels, Forsyth found two dead pirates and concluded that 'from the appearance of the blood on [the ships'] decks many [pirates] must have been wounded'. He also encountered 'one Portuguese and a native of Goa' who participated in firing on the boats of the *Hornet*. The Portuguese participant claimed to have been a captive of the pirates and reported that other Europeans were among the pirate crew that escaped. Despite this information and having already violated Qing territorial sovereignty by landing forces, Forsyth decided not to pursue the pirates. He was instead satisfied with burning the abandoned ships, destroying their guns, and restoring a stolen vessel to the Chinese victim who accompanied the expedition.

On her way back to Hong Kong, the *Hornet* called at 'Lingting', an island in the Canton Delta. There, Forsyth reported that a 'villager informed us that a Fleet of Mandarin Junks had been seen cruising yesterday between Lingting and the Lama Island, directly in the track of vessels bound for [Hong Kong]'. The junks constituted a hostile force. Britain being at war with China, Qing war junks in the vicinity of Hong Kong could threaten the trade upon which the

⁷⁶ Minute by Bell, 4 May 1857, addenda to Bowring to Labouchere, 28 February 1857, CO 129/62, 341.

colony relied. Distressed by the proximity of a Qing fleet to a British possession, Forsyth 'immediately stood over in that direction but could hear nothing of them'.⁷⁷ An expedition against pirates, the enemy of all, became a search for ships of Britain's circumstantial enemy in the *Arrow* War. British suppression of Chinese piracy continued in Guangdong despite the state of hostilities between Britain and China, and the Royal Navy attacked pirate junks and Qing warships alike.

'Lingting' (Lingding, known as Lintin Island in English sources) served as an opium depot in the early nineteenth century. By mid-century, Chinese pirates often used it as a headquarters.⁷⁸ Though notoriously beyond the control of Qing authorities, it technically formed part of Xin'an district and fell within the military jurisdiction of the colonel of Dapeng at Kowloon.⁷⁹ During the first Opium War, Lai Enjue reported on the situation there.⁸⁰ Considering that the Dapeng colonel, now Zhang Yutang, had a number of 'war-junks... under his command at the various stations of the district', the mandarin junks reported by the villagers at Lintin were likely under his orders.⁸¹ A month after mandarins at Kowloon, under Zhang's authority, received the seventy-three pirates captured by the Royal Navy, a ship from the same force sought to engage his squadron. Hong Kong's incapacity to deal with pirates may have driven British officers to continue cooperating with the Kowloon authorities, but, as reprimands from the Colonial Office and Forsyth's search for Qing war junks show, the war between China and Britain complicated the matter.

With relations between Hong Kong and Kowloon strained by hostilities at Canton, British authorities turned to other partners in suppressing piracy. On 8 June 1857, Captain George Hand of HMS *Sampson* set off for Mirs Bay along with Caldwell and a Chinese informant in

⁷⁷ Forsyth to Seymour, 22 March 1857, ADM 125/1, 627-628.

⁷⁸ Robert Nield, *China's Foreign Places: The Foreign Presence in China in the Treaty Port Era, 1840-1943* (Hong Kong: Hong Kong University Press, 2015), 155.

⁷⁹ Lu Jin, *Jiulong chengzhai shihua* [Historical Discussion of the Kowloon Walled City] (Hong Kong: Joint Publishing Co., 1988), 44.

⁸⁰ Report by Lai Enjue, DG 21/11/*xinwei* (2 January 1842), *YWSM*, DG 40/26 in *SKQS*, vol. 415.

⁸¹ Rudolph Kröne, 'A Notice of the Sanon District, Read before the [China Branch of the Royal Asiatic] Society, February 24th, 1858' in *Journal of the Royal Asiatic Society Hong Kong Branch* 7 (1967), 118. Zhang Yutang had led the Qing contingent during the international expedition to Coulan in 1854.

search of piratical assailants who had attacked the informant. On the information of some fishermen, the *Sampson* sailed to Kat-O, where it encountered 'one large Junk mounting nine Guns'. Seeing the *Sampson*, the crew of the junk abandoned ship only to be attacked by villagers ashore. The boats of the *Sampson* further succeeded in capturing 'two large Junks and a lorcha carrying the Portuguese Flag' after exchanging fire.⁸² Hand delivered the prisoners from the Portuguese-flagged lorcha to Macau. Governor Izidoro Guimarães considered the prisoners within the jurisdiction of the Chief Justice of Macau and declared Hand's account 'satisfactory enough', believing it 'sufficiently justifie[d] the destruction of the Lorcha No. 139'.⁸³ Guimarães also forwarded 'particulars', which he thought 'should be known by the Cruisers of Foreign Powers to enable them to discriminate those boats that are legally entitled to carry the Portuguese Flag from such as do so without authority'.⁸⁴ Guimarães forwarded this memorandum to the main naval powers on the China coast shortly after the Macau government gazette published the proceedings in the Chamber of Deputies on 9 March 1857, which contained complaints about the deplorable state of the Portuguese fleet in China.⁸⁵ Guimarães's approval of HMS *Sampson*'s actions against a piratical Portuguese lorcha and his request for assistance from 'Cruisers of Foreign Powers' in the context of the Chamber of Deputies' desperation at the weakness of the Portuguese navy suggests a willingness on the part of the Portuguese officials to participate in the collaborative imperial hydrarchy of the Canton Delta.

Bowring's complaints about the limits of the Hong Kong criminal justice system in dealing with piracy and the rendition of pirates to Kowloon and Macau show that British authorities continued to accept assistance in suppressing piracy in South China. Despite the outbreak of hostilities at Canton, British officers proved willing to cooperate, if warily, with the Canton

⁸² Hand to Seymour, 9 June 1857, ADM 125/1, 909-910.

⁸³ Guimarães to Bowring, 13 June 1857, trans J.M. D'Almada e Castro, ADM 125/1, 924.

⁸⁴ Ibid, 925. See 'Memorandum with regard to Lorchas carrying the Portuguese Flag', 13 June 1857, trans. D'Almada e Castro, ADM 125/1, 927-930.

⁸⁵ See *Boletim do Governo de Macao, Timor e Solor*, vol. 3, nos. 32 and 33, 30 May and 6 June 1857. The 6 June edition included an unfavourable comparison of the number of active ships then active in the Portuguese navy in comparison with 1796 and concluded that the navy in 1857 'could not establish terms of comparison with England, with France or with the United States' or even the 'nascent empire' of Brazil. *Boletim*, vol. 3, no. 33, 6 June 1857, 130.

authorities' subordinates at Kowloon. As Canton's criminal justice system held the ultimate authority over pirates in Guangdong, however, the provincial capital was an important linchpin in the Anglo-Qing *modus vivendi* for suppressing piracy in that province. Hostilities between Britain and the Canton authorities caused a disruption in this cooperation, with Whitehall prohibiting the rendition of Chinese pirates to enemy officials. War between Britain, and later France, and China became an obstacle to an effective collaborative imperial hierarchy over Chinese pirates, one which was removed by the Anglo-French occupation of Canton.

Collaborative Imperial Hierarchy in Occupied Canton

The bombardment of Canton and impressive British naval victories against Qing forces in the Canton River, particularly at Fatshan (Foshan) Creek in May and June 1857, failed to move Ye Mingchen to apologise for the *Arrow* incident or to agree to further concessions.⁸⁶ As naval battles had limited effect, Rear-Admiral Seymour declared that 'the River of Canton should continue in the sole occupation of the British Forces' and announced a blockade of the 'River and Port of Canton, by all its entrances' to commence on 7 August.⁸⁷ Seymour concluded in a letter to the Admiralty that the blockade was 'the only legal remedy' against Qing intransigence and attempts to exclude British trade from Canton.⁸⁸ The blockade also proved ineffective, undermined by Chinese smuggling craft.⁸⁹ Many of these vessels also participated in piracy. Shortly after the establishment of the blockade, Seymour reported that while the Qing navy had been driven from the river, 'the Creeks abound with small Piratical Row-Boats'.⁹⁰

While Ye, hostile towards the British, remained in power in Canton, the Royal Navy was limited in the action it could take against pirates in the Canton Delta. Captain Harry Edgell, senior naval officer at Hong Kong, wrote to his fellow officer, Captain Hand, that 'we are not expected to do the duty of River Police to the High Commission and you will on no account

⁸⁶ See Graham, *China Station*, 315-317. Wong, 'Limits of Naval Power', 101-102.

⁸⁷ *The Hongkong Government Gazette Extraordinary*, 4 August 1857 in ADM 125/99, 25.

⁸⁸ Seymour to Admiralty, 8 August 1857, ADM 125/99, 36.

⁸⁹ Graham, *China Station*, 328.

⁹⁰ Seymour to Admiralty, 10 August 1857 ADM 125/99, 47.

send your boats away in search of Pirates up the Creeks'.⁹¹ As during the first Opium War, however, the British destruction of Qing naval forces disrupted Canton's imperial hydrarchy. Despite a blockade and the state of hostilities, British officials still relied on Qing authorities to prosecute pirates captured by the Royal Navy. The limits on actions permitted to British warships meant that the Royal Navy could not act as an effective suppressor of piracy. The situation was worsened by hostilities, which precluded Anglo-Qing cooperation though the both sides still participated in it. In these circumstances, piracy flourished beyond British and Chinese control. In a letter to John Pakington, a former colonial secretary and soon to be first lord of the Admiralty, Seymour proposed a solution: 'the simplicity and certainty of a military control' of Canton.⁹²

The confidence of Rear-Admiral Michael Seymour and his military counterpart, Major-General Charles Thomas van Straubenzee, in their ability to take and hold Canton with French support pressured Lord Elgin into authorizing such action.⁹³ Elgin issued an ultimatum to Ye Mingchen:

an insult to the British flag, followed by the refusal of the Imperial Commissioner to grant adequate reparation, or even to meet in the city the representative of her Britannic Majesty, for the purpose of effecting an amicable settlement, has forced the officers who are charged with the protection of British interests in this quarter to have recourse to measures of coercion against Canton.⁹⁴

Ye continued to insist that the *Arrow* incident was a matter of 'the arrest of Chinese pirates on board a Chinese boat, by the Chinese executive'.⁹⁵ Still believing that the *Arrow* and her crew

⁹¹ Edgell to Hand, 19 July 1857, Papers of Harry Edmund Edgell (EDG)/1, Caird Library of the National Maritime Museum (NMM), Greenwich, UK.

⁹² Seymour to Pakington, 27 September 1857, No. 1, Corbett Papers (CBT)/Manuscripts (29)/Letters of Admiral Sir Michael Seymour (6), NMM.

⁹³ Graham, *China Station*, 334-336. Van Straubenzee was known affectionately as 'Strawberry-jam' to his men. Cooke, *China*, 285.

⁹⁴ Elgin to Ye, 12 December 1857 quoted in Cooke, *China*, 260.

⁹⁵ T.F. Wade, 'Memorandum of the purport of a Letter from the Imperial Commissioner Yeh, dated December 14 [1857]' in *British Parliamentary Papers Area Studies Series: China (BPP)* (Shannon: Irish University Press, 1971), vol. 33, 523.

were under Qing jurisdiction, Ye refused to admit to any impropriety and rejected the ultimatum, and British and French forces launched an attack on Canton.⁹⁶

The bombardment of Canton began on 28 December 1857, allied forces landing the following day.⁹⁷ By 31 December, the allies 'had possession of the walls and Canton was at [their] mercy'.⁹⁸ On 5 January 1858, British forces captured Ye Mingchen and imprisoned him aboard HMS *Inflexible*, eventually sending him to exile in Calcutta.⁹⁹ Having deposed Qing authority at Canton, order quickly collapsed. Days after the capture of Canton, British authorities were receiving 'petitions... praying for protection against marauders, both foreign and native'.¹⁰⁰ The petitions included a request that 'the navy will not allow the piratical boats now scouring the neighbourhood of Samchau to continue their violence'. According to a British report, the petitioners, a group of Canton gentry also 'begged to know whether if they seized vagabonds and robbers, we would punish them; if we would assist them in capturing such persons'.¹⁰¹ In the immediate aftermath of the Anglo-French occupation of Canton, local elites requested that the allies take action against pirates and offered assistance. A collaborative imperial hierarchy could be recreated in occupied Canton.

British and French forces needed support. The allies quickly realised they lacked the means to administer so large and heavily populated a city as Canton 'without the assistance of the Governor Pih-kwei [Bogui]'. They decided that Bogui, 'must be accepted as a necessity of the situation' and that he 'should return to his yamun and resume his functions as Governor, but that there should be established at the same time in his yamun a tribunal of officers selected by

⁹⁶ See Anglo-French Military Authorities to High Authorities at Canton, 24 December 1857, ADM 125/99, 277-282 and Allied Commanders to Canton Authorities, 27 December 1857, ADM 125/99, 282.

⁹⁷ Cooke, *China*, 314-318. Graham, *China Station*, 337-338.

⁹⁸ Entry for 31 December 1857, Journal of Charles Courtney in *Surgeon on the China Seas: The Journal of Charles Courtney, Surgeon RN Recounting Experiences and Observations of the Second Opium War, 1856-1860*, ed. Michael Humpries (Hong Kong: Atrabates Press, 2012), 33. Charles Courtney was a naval surgeon posted with the Provisional Battalion of Marines in occupied Canton.

⁹⁹ Elliot to Straubenzee, 5 January 1858, ADM 125/99, 360-361. Graham, *China Station*, 338-339. Cooke, *China*, 427.

¹⁰⁰ Elgin to Clarendon, 2 January 1858 in *BPP*, vol. 33, 555.

¹⁰¹ Memorandum by Thomas Wade, 2 January 1858 in *ibid*, 559.

the Commanders-in-chief of the allied forces, and acting under their authority'.¹⁰² British and French authorities required Bogui to consult with this tribunal, known collectively as the Allied Commissioners, before issuing any proclamations, all of which required the commissioners' approval.¹⁰³ Furthermore, Rear-Admiral Seymour, Major-General van Straubenzee, and Contre-Amiral C. Rigault de Genouilly decreed that the Allied Commissioners

will assist the Governor in maintaining order. To this end they will be supported by a military force, parties from which will, from time to time, patrol the city... Beyond the limits of the positions held by the allied force, all cases in which Chinese alone are concerned shall be disposed of by the Chinese authorities; but the above Committee will take cognizance of all in which foreigners alone, or in which foreigners and Chinese are concerned. Offences committed within the limits above indicated will be dealt with under martial law.¹⁰⁴

Bogui's yamen, counselled by the Allied Commissioners, established a joint police force of European and Qing soldiers.¹⁰⁵ By the end of the month, the police force consisted of 'One hundred English and thirty French, distributed between six stations', each of which was supported by 'an equal number of Chinese police being associated with them, and taking part in the discharge of their duties'.¹⁰⁶ The joint police force 'severely punished' any disorder, 'which soon put a stop to that kind of work'.¹⁰⁷

According to James Hevia, the occupation of Canton resulted in the city being 'reterritorialized', through the imposition of 'British-style colonial law and order'.¹⁰⁸ Indeed, Lord Elgin believed that the joint-administration of Canton was 'the most important experiment which we are now making in that city'.¹⁰⁹ He hoped that if 'the affairs of the city, in so far as the allies are concerned, be wisely, temperately, and firmly administered... the people at its close may regret our departure. In that event a result will have been achieved of great political importance'.¹¹⁰ Steven Leibo, however, points out that occupied Canton was far from a peaceful

¹⁰² Elgin to Clarendon, 9 January 1858 in *ibid*, 560-561.

¹⁰³ Seymour to Pequi [Bogui], 7 January 1858, ADM 125/99, 369.

¹⁰⁴ Allied Commanders-in-Chief to Pih-kwei [Bogui], 9 January 1858 in *BPP*, vol. 33, 562.

¹⁰⁵ Cooke, *China*, 356-358.

¹⁰⁶ Parkes to Elgin, 27 January 1858 in *BPP*, vol. 33, 581.

¹⁰⁷ Entry for July 1858, Charles Courtney Journal in *Surgeon on the China Seas*, 41.

¹⁰⁸ Hevia, *English Lessons*, 36.

¹⁰⁹ Elgin to Clarendon, 28 January 1858 in *BPP*, vol. 33, 585.

¹¹⁰ Elgin to Parkes, 22 January 1858 in *ibid*, 585.

place. The allies needed the assistance of Qing officers to maintain a precarious control over the population in and around Canton.¹¹¹ Under the tenuous administration of rehabilitated Qing officers subordinate to the Allied Commission (which was itself under the authority of military commanders) disorder persisted, and pirates ran rampant in the waters of Canton. The direct cooperation between European and Chinese police and the assigning of the Allied Commissioners to the governor-general's yamen, however, permitted a closer form of collaborative imperial hydrarchy to develop in response to the problem of piracy.

Bogui proved willing to cooperate with the allies against piracy. On 16 January 1858, he 'supplied a return of war-boats which he is prepared to employ in the suppression of piracy on the river, in co-operation with the allied naval forces'.¹¹² Ten days later, Captain Edgell, who was now senior officer on the Canton River, issued a memorandum with the order: 'Should any Chinese be guilty of petty thefts or other minor acts on the River and be detected by any of Her Majesty's Ships or Vessels the case is to be reported to me, and the Prisoners with the Witnesses held in readiness for Examination'.¹¹³ British forces thus expanded jurisdiction over crime in Chinese waters. The Anglo-French occupation of Canton permitted this infringement of Qing sovereignty, though Qing assistance and participation in operations against pirates remained necessary. Two weeks after issuing his memorandum, Edgell ordered Lieutenant Graham of HMS *Lee* to 'proceed with the Gun Boats... in support of a Division of Mandarin Boats towards Hamilton Creek for the purpose of assisting the Chinese Government in suppression of Piracy'; Graham would also command 'Two Pinnaces of our [French] Allies'. Edgell told Graham that 'the Commander in Chief wishes... that every support both by Arms and Towing should if necessary be given to the Chinese Squadron, but they are to choose their own ground and take the initiative'. Edgell warned Graham to 'bear in mind that this Expedition has reference solely to the suppression of Piracy and has nothing whatever to do with Rebels or Mandarin Junks belonging to any other Districts whom you may fall in with not joining this Squadron'.¹¹⁴ Direct

¹¹¹ See Leibo, 'Not so Calm an Administration', 16-33 for a general description of occupied Canton.

¹¹² Minute by Allied Commissioners, 16 January 1858 in *BPP*, vol. 33, 574.

¹¹³ Memo by Captain Edgell, 26 January 1858, EDG/1.

¹¹⁴ Edgell to Lieutenant Graham, 10 February 1858, EDG/1.

participation by British naval forces in Chinese-led expeditions against pirates was possible through the joint administration of Canton. The situation of that city, being under the Allied Commissioners as well as Qing authorities, however, made it a unique entity in China. Joint police authority was limited to the immediate vicinity, and districts beyond Canton's jurisdiction were under a separate regime less willing to cooperate with the allies and vice versa.

While the anti-piracy expedition up Hamilton Creek seems to have been an initiative of the Qing authorities, British officers took the lead in other operations against pirates. A month after the Hamilton Creek expedition, pirates captured a cargo boat belonging to 'Messrs. Siemssen & Co.' near 'a village between Canton and Whampoa named Chaypee [Chepi]'. Edgell complained to the Allied Commissioners that piracy was 'not only a disgrace to any Government, but unless at once checked, must be prejudicial to the interests of Trade, now happily reviving'. He requested that the Allied Commissioners ask Bogui 'to send the Officer appointed, to act with the Squadron; for the suppression of Piracy in one of my Gun Boats, with his Staff, or accompanied by a mandarin Boat'.¹¹⁵ The Qing officer never appeared, and the British force, accompanied by French boats, went after the pirates without him.¹¹⁶ The Allied flotilla, consisting of six gunboats and boats and men from various other ships, opened fire on the village of Chepi and landed a force to interrogate the village elders and capture pirates.¹¹⁷ Edgell delivered the prisoners 'over to the Allied Commissioners that their evidence may be taken preparatory to drawing up the case for presentation to His Excellency the Acting Imperial Commissioner'.¹¹⁸ The Allied Commissioners, on investigation of the sixteen prisoners, decided that all were innocent of piracy. They concluded that 'to have handed over these sixteen prisoners to H.E. Pihkwei's [Bogui's] would in the opinion of the Commissioners have done little... at the expence [sic] of much injustice to the innocent parties seized'. The prisoners themselves preferred to indemnify Siemssen & Co. for losses than be delivered to Qing

¹¹⁵ Edgell to Allied Commissioners, 21 March 1858, ADM 125/99, 571-572.

¹¹⁶ Edgell to Seymour, 24 March 1858, ADM 125/99, 575-577.

¹¹⁷ Jenkins to Edgell, 22 March 1858, ADM 125/99, 581-582. Entry for 22 March 1858 in EDG/3, NMM.

¹¹⁸ Edgell to Seymour, 24 March 1858, ADM 125/99, 576-577.

authorities. The detainee 'Kau-a-foo', however, was sent to Bogui, 'not under charge of Piracy, but mainly with the view of enabling the Chinese authorities by means of the information which his avowed connexion to Kau Too Chow [an alleged pirate chief], will enable him to supply to take steps for the apprehension and punishment of this notorious outlaw and his confederates'.¹¹⁹ The Allied Commissioners, holding authority over Canton, still hoped Qing officials would do their share in suppressing piracy.

Though Chinese officers did not participate in the March expedition to Chepi, Rear-Admiral Seymour approved of this British action against Chinese subjects.¹²⁰ British officers continued to attempt to include the Qing authorities in suppressing piracy. On 1 April 1858, Captain Edgell met with the 'Tartar General' in Canton.¹²¹ Given the recent occurrences in Hamilton Creek and at Chepi, the issue of piracy was almost certainly discussed. Two days later, HMS *Algerine* engaged three piratical craft. The vessels, with arms and crew, were 'sent to Commissioners Boat'; the commissioners ordered the boats destroyed, and the guns were given to HMS *Algerine*.¹²² On 11 May 1858, pirates plundered a cargo boat belonging to Jardine, Matheson & Co. The following day, Captain Edgell sent HMS *Lee*, *Clown*, and *Watchful* to Whampoa to deal with the matter. In the end, 'two Elders from the Village of Ting-ha and three prisoners from Chaypee' were brought before the Allied Commissioners.¹²³ Suspected pirates would ultimately be handed over to Qing tribunals. The system of collaborative imperial hydrarchy initially developed between Hong Kong and Kowloon was reincarnated in a more direct form in occupied Canton.

Piracy by crewmembers of the *Arrow* and Qing attempts to deal with them helped spark another war between Britain and China. Even amidst hostilities, however, British officers proved

¹¹⁹ Holloway, de Chesnez, and Parkes to Edgell, 5 April 1858, ADM 125/99, 627-629. I have been unable to find the Chinese names of Kau-a-foo and Kau Too Chow.

¹²⁰ Seymour to Edgell, 13 April 1858, Letterbooks (LBK)/Letterbooks of Admiral Sir Michael Seymour GCB during the Second China War (79), 67, NMM.

¹²¹ Entry for 1 April 1858, EDG/3.

¹²² Entry for 3 April 1858, EDG/3.

¹²³ Edgell to Stewart, ADM 125/99, 755-757. Entry for 12 May 1858, EDG/3. I have been unable to find the Chinese name of Ting-ha.

incapable of suppressing piracy without Qing assistance. British and Qing officials continued to cooperate against pirates throughout the *Arrow* War and even after the allied occupation of Canton. Allied dependence on Qing officials for the administration of Canton was perhaps most evident in an agreement between the Allied Commissioners 'that the Chinese Authorities could not be allowed to quit the City... [T]o insure that the working Officers should remain, H.E. Pihkwei [Bogui], the Acting Judge, and Superintendent of Customs were to be placed under surveillance in Pihkwei's Yamun'.¹²⁴ Bogui attempted to escape several times during the summer of 1858 and was forced by the allies to remain at his post and cooperate.¹²⁵ Coordinated efforts between the allies and Qing authorities for suppressing of piracy, however coerced, eventually had their effect. On 6 June 1858, Captain Edgell reported that 'on the River there have been no acts of Piracy and the Mercantile Traffic appears to progress steadily and quietly'.¹²⁶

Piracy nonetheless persisted.¹²⁷ In an effort to suppress piracy the allies issued an order forbidding Chinese junks from entering waters near the city of Canton.¹²⁸ Execution of this prohibition required the cooperation of Qing officials who were an important component of maritime control at Canton. The Royal Navy also played an indispensable role. Between piracy and unrest in Canton, Rear-Admiral Michael Seymour believed 'it would not be advisable to undertake a reduction of our Squadron in China', highlighting the importance of British warships in the administration of Canton.¹²⁹ Cooperation between Qing officials and the Royal Navy, as well as the Allied Commissioners and Anglo-French military forces, ultimately succeeded in maintaining control, however tenuous at times, over Canton. The 'long summer' of 1858, during which the joint administration was strained by piracy and other forms of disorder, came to an end with the signing of the Treaty of Tientsin (Tianjin), after which a

¹²⁴ Edgell to Stewart, 6 May 1858, ADM 125/99, 686-687.

¹²⁵ Leibo, 'Not So Calm an Administration', 25.

¹²⁶ Edgell to Stewart, 6 June 1858, ADM 125/99, 891.

¹²⁷ See entries for 14, 18, 28 and 29 June in EDG/3. Seymour to Edgell, 28 July 1858, LBK/79, 203.

¹²⁸ Circular, 22 June 1858 *Correspondence politique, Chine*, vol. 22, fol. 94-95, in Leibo, 'Not So Calm an Administration', 23.

¹²⁹ Seymour to Pakington, 30 July 1858, No. 8, CBT/29/6.

relative calm returned to the city.¹³⁰ The closer cooperation between Britain and China at Canton would influence later interactions in dealing with pirates and this, along with other developments, would become codified in the treaty, which created a firmer legal basis for Anglo-Qing collaborative imperial hydrarchy.

¹³⁰ Leibo, 'Not So Calm an Administration', 25.

Chapter 5

‘Revolutionising the System’: Collaborative Imperial Hydrarchy in the Treaty of Tientsin and Convention of Peking

The outbreak of the *Arrow* War gave Britain an opportunity to renegotiate its treaties with China through gunboat diplomacy. In addition to trying to establish diplomatic relations on a more equal footing and increasing access to China’s markets, British diplomats sought to use treaty negotiations to mandate cooperation with the Qing government for suppressing piracy. The Anglo-Qing negotiations of the Treaty of Tientsin (Tianjin) accordingly helped codify the system of cooperation against piracy that had been developing since the colonisation of Hong Kong. The treaty clarified ambiguities regarding Qing and British jurisdiction over Chinese pirates and expanded the scope for cooperation. While saddling Qing officials with responsibility for punishing pirates, the Treaty of Tientsin also permitted an expanded range of activity for Royal Navy anti-piracy operations in Chinese waters. China Station commanders were quick to act on these privileges, attacking pirates in areas previously closed off to foreign warships and delivering captives to Qing officials outside the treaty ports or Kowloon. This chapter examines the negotiations between British and Qing officials for the legal basis of collaborative imperial hydrarchy in the Treaty of Tientsin, which helped codify many of the developments discussed in previous chapters and will assess the implications of this codification for the international law of piracy in China.

Disagreements over certain stipulations of the Treaty of Tientsin, however, impeded its ratification by the Qing government. This resistance prompted a resumption of hostilities, which resulted in the allied occupation of Beijing and presented Britain with another opportunity for treaty negotiations. By this time, colonial officials realised that the pirates from Kowloon, the lawless Qing territory across Victoria Harbour from Hong Kong, were threatening the order of the colony. Hostilities with China gave Britain an excuse to occupy Kowloon for temporary military purposes. Colonial officials, however, decided to use this opportunity to push for the annexation of Kowloon, citing the need to suppress piracy and maintain order as justification.

Ultimately, it was this argument rather than military or strategic claims that British officials put forward when requesting the cession of Kowloon, to which Qing leaders assented at gunpoint. Piracy provided a basis for a renegotiation of Anglo-Qing relations and British imperial expansion in China. The Treaty of Tientsin, with its stipulations regarding piracy, and the British colonisation of Kowloon, while manifestations of British imperial aggression, would also provide a basis for new developments in a more effective collaboration against piracy.

Codifying Collaborative Imperial Hydrarchy: The Treaty of Tientsin

Even before the *Arrow* incident, Britain sought a war with China to revise its treaties and increase its access to the China market. The Qing exercise of jurisdiction over a Hong Kong-registered lorcha in Chinese waters provided an opportunity for British authorities to resort to force and obtain treaty revision.¹ With the outbreak of hostilities, Whitehall appointed Lord Elgin to act as ‘Her Majesty’s High Commissioner and Plenipotentiary for the settlement of various matters between Her Majesty and the Emperor of China’. These matters included ‘the complete execution at Canton, as well as the other ports, of the stipulations of the several Treaties’, the right to carry out diplomacy directly with the Qing court at Beijing, ‘access to cities on the great rivers’, in particular the Yangtze (Yangzi), and ‘permission for all Chinese vessels to resort to Hong Kong for the purposes of trade, from all ports of the Chinese Empire without distinction’.² The foreign secretary, the Earl of Clarendon, also requested that Lord Elgin ‘endeavour to liberate the trade with China’ from current treaty restrictions and make the ‘best endeavours, with a view to the protection of commerce, to induce the Chinese Government to admit, by formal stipulation, the co-operation of Her Majesty’s naval forces in China for the suppression of piracy’.³ Among other objectives, Elgin set out for China with a

¹ John Y. Wong, *Deadly Dreams: Opium, Imperialism, and the Arrow War (1856-1860) in China* (Cambridge: Cambridge University Press, 1998), 24-29.

² Clarendon to Elgin, 20 April 1857 in *British Parliamentary Papers Area Studies Series: China (BPP)* (Shannon: Irish University Press, 1971), vol. 33, 421-423.

³ Clarendon to Elgin, 20 April 1857, in *BPP*, vol. 33, 424-425.

mandate to create a more solid basis for collaborative imperial hydrarchy against piracy in treaty law.

As the previous chapter showed, Ye Mingchen's refusal to concede to British and French demands resulted in the capture of Canton, which failed to bring Qing representatives to the negotiating table. With Ye exiled to Calcutta and Canton under allied occupation, the British and French plenipotentiaries, accompanied by their American and Russian counterparts, sought Qing negotiators elsewhere. Elgin noted that the British strategy during the first Opium War was now 'almost valueless' as the riverine approaches to the Grand Canal, the capture of which prompted Qing statesmen to sue for peace in the Treaty of Nanking, were in the hands of the Taiping rebels.⁴ Elgin nonetheless attempted negotiations at Shanghai. Aware, however, that Shanghai's strategic position vis-à-vis the Qing was lost to the Taipings, he also told Rear-Admiral Michael Seymour that 'it may be necessary, in pursuance of the policy prescribed by Her Majesty's Government, to bring pressure to bear at some point near the capital'.⁵ Unsatisfied with proceedings at Shanghai, Lord Elgin, Baron Gros of France, Count Putiatin of Russia, and William Reed of the United States decided to attempt negotiations at the Haihe (known as the Peiho in English sources), the river approaching Beijing. They met Zhili provincial officials at the mouth of the Haihe on 30 April 1858. When these negotiations proved unsatisfactory, the allied plenipotentiaries issued an ultimatum threatening to resort to naval force.⁶

On the morning of 20 May 1858, allied gunboats bombarded the Qing forts at Dagou (Taku in English sources) on the Haihe. Originally built during the Crimean War for an attack on the Kronstadt, the fortress guarding the port of St. Petersburg, the gunboats, small steam-propelled craft with shallow draft and heavy armament, instead proved their mettle against Chinese

⁴ Elgin to Clarendon, 9 July 1857 in *BPP*, vol. 33, 442. John Y. Wong, 'The Limits of Naval Power: British Gunboat Diplomacy in China from the *Nemesis* to the *Amethyst*, 1839-1949', *War & Society* 18, no.2 (October 2000), 97, 101. Rebecca Berens Matzke, *Deterrence through Strength: British Naval Power and Foreign Policy under Pax Britannica* (Lincoln: University of Nebraska Press, 2011), 147-149.

⁵ Elgin to Seymour, quoted in Laurence Oliphant, *Narrative of the Earl of Elgin's Mission to China and Japan in the Years, 1857, '58, '59* (Edinburgh: William Blackwood and Sons, 1859), 251.

⁶ Oliphant, *Narrative*, 272-273.

fortifications on the riverine approaches to Tianjin. Their manoeuvrability and heavy guns made short work of the Qing defences.⁷ Seymour reported that ‘after a heavy cannonade of about an hour and a quarter, the forts were completely dismantled by the well-directed fire of the French and English gun-boats, and the garrisons driven out’ with the forts in allied control by evening.⁸ The allied fleet then advanced upriver to Tianjin, the port closest to Beijing. Laurence Oliphant, Elgin’s private secretary, described Elgin and Gros’s progress in HMS *Slaney* as ‘the Ambassadors of the two greatest powers in the world, forcing their way into the heart of a country containing 300,000,000 inhabitants, in defiance of the will of the Government’.⁹ Such defiance incensed Emperor Xianfeng, who considered the allied occupation of the Dagou forts ‘a most detestable crime’. But menaced by a steam-powered fleet capable bringing a force within striking distance of the imperial capital, he sent Guiliang and Huashana to Tianjin to negotiate with the allies as a means of ‘preventing them from advancing on Beijing’.¹⁰ Guiliang and Huashana arrived in Tianjin on 2 June. The next day, they met the ‘barbarian chiefs of the four kingdoms’ and began negotiations for a new treaty.¹¹

Negotiating the Treaty

Horatio Nelson Lay, the inspector-general of the Imperial Maritime Customs, mediated the Anglo-Qing negotiations. Lay, rather than Elgin, negotiated the terms of the Treaty of Tientsin with Guiliang and Huashana.¹² Elgin believed that Lay was ‘thoroughly well-informed on all the questions at issue’ between the two governments and that ‘the fidelity with which he has discharged the duties of Inspector of Customs on behalf of the Chinese Government at Shanghai,

⁷ Anthony Preston and John Major, *Send a Gunboat: The Victorian Navy and Supremacy at Sea, 1854-1904*, revised edition (London: Conway, 2007), 21-22, 47.

⁸ Seymour to Elgin, 21 May 1858 in *BPP*, vol. 33, 730. See also Gerald S. Graham, *The China Station: War and Diplomacy, 1830-1860* (Oxford: Clarendon Press, 1978), 349-351.

⁹ Oliphant, *Narrative*, 324-325.

¹⁰ Edict to the Grand Council, Xianfeng reign (XF) 8th year/4th month/*xinchou* day (28 May 1858), *Chouban yiwu shimo* [Complete Records of Managing Barbarian Affairs, *YWSM*], XF/*juan* 23 ed. Wenqing, Jiazhen, Baoyun, et al. in *Xuxiu siku quanshu* [Complete Books of the Four Storehouses, revised edition, *SKQS*], vol. 417 (Shanghai: Shanghai guji chubanshe, 1995).

¹¹ Edict to the Grand Council, XF 8/4/*dingmao* (3 June 1858), *YWSM*, XF/24, 9 in *SKQS*, vol. 417.

¹² Oliphant, *Narrative*, 343-344.

gives him a claim to the confidence of the Chinese officials, greater than, perhaps, any other European possesses'.¹³ On 6 June 1858, Lay met the secretaries to Guiliang and Huashana and laid down eight demands, including the right of a British minister to reside in Beijing, the opening of the Yangtze to British trade and residence, and the 'cooperation of the Chinese Government in the repression of piracy'.¹⁴ Guiliang and Huashana wanted to reject the demands, but the threatening position of the allied forces in relation to Beijing forced them to attempt negotiations.¹⁵ The Qing court permitted Guiliang and Huashana to 'decide which treaty stipulations to accept and which to reject' and ordered them to gauge the reaction of the barbarian negotiators. The imperial commissioners would also attempt to reach compromises on each of the British demands.¹⁶ For example, rather than agreeing to open all the Yangtze, they could instead offer to open two ports on the river as well as two more treaty ports on the coast of Guangdong or Fujian.¹⁷ While Qing authorities had capitulated in the Treaty of Nanking and opened up coastal ports to foreign shipping, they remained reluctant to allow foreign access to Chinese rivers as this was seen as more blatant impingement on Chinese waters than allowing access to the inner seas.¹⁸ The Qing negotiators adamantly opposed treaty demands they saw as threatening Chinese sovereignty. At his next meeting with Guiliang and Huashana, Lay complained that 'all our propositions [were] more or less negatived'.¹⁹ Though he conceded that the matter of establishing the right for a British minister to reside at Beijing and indemnity for the occupation of Canton were beyond his authority, he insisted that the Qing commissioners assent to his other demands, including cooperation in suppressing piracy.

¹³ Elgin to Malmesbury, 18 June 1858 in *BPP*, vol. 33, 754.

¹⁴ Horatio Nelson Lay, 'Notes of a Conversation between Mr. Lay and Twau, Pieu, Kwah, and Mei, Secretaries attached to Commissioners Kweiliang and Hwashana, on June 6, 1858' in *BPP*, vol. 33, 745.

¹⁵ Memorial by Guiliang and Huashana, XF 8/4/*xinwei* (7 June 1858), *YWSM*, XF/24, 27-28 in *SKQS*, vol. 417.

¹⁶ Edict to the Grand Council, XF 8/4/*xinwei* (7 June 1858), *YWSM*, XF/24, 28 in *SKQS*, vol. 417.

¹⁷ Edict to the Grand Council, XF 8/4/*bingzi* (12 June 1858), *YWSM*, XF/25, 7 in *SKQS*, vol. 417.

¹⁸ Anne Reinhardt, *Navigating Semi-Colonialism: Shipping, Sovereignty, and Nation-Building in China, 1860-1937* (Cambridge, MA: Harvard University Press, 2018), 38-43.

¹⁹ Lay, 'Note of a Conversation between Mr. Lay and the Chinese Officer, Pieu; and, subsequently, with the Commissioner Kweiliang, on June 8, 1858' in *BPP*, vol. 33, 747.

Guiliang and Huashana eventually accepted British demands to lift restrictions on missionary activity, 'consult' with British officials 'in the capture of pirates', change methods of official correspondence, and discuss new tariffs.²⁰ To help facilitate cooperation against pirates, British negotiators requested that Royal Navy ships receive the right to visit any port in Chinese waters. The Qing commissioners rejected this demand partly 'on account of the fear [British warships] would cause the inhabitants' but more importantly 'because of the difficulty of stating the proposition as it stood to the Emperor'.²¹ Qing officials had long attempted to exclude foreign warships from Chinese waters, seeing their presence as a violation of China's maritime sovereignty. British negotiators softened the demand for Royal Navy access to all Chinese ports with 'the addition of words, signifying, "when coming with no hostile purpose, or in pursuit of the pirates."' This clause, it was also explained to [Guiliang and Huashana], contained nothing contrary to the usage of nations'.²² Through treaty law, British officials hoped to introduce their notions of the international law of piracy to China.

The Qing commissioners remained reluctant to accept the terms of the treaty but felt pressured to do so by the British threat to advance on Beijing.²³ Emperor Xianfeng ordered the imperial commissioners to 'use their mouths and tongues to bring [the barbarians] to reason' and to resist demands for opening the Yangtze and establishing a resident minister at Beijing.²⁴ The emperor did not comment on other treaty stipulations. On the eve of the signing of the Treaty of Tientsin, Xianfeng seems to have accepted most of the treaty's articles, including clauses on piracy. On 26 June 1858, threatened by 'warships very close by', Guiliang and Huashana signed the Treaty of Tientsin, agreeing that 'not a single word could be changed'.²⁵ Emperor Xianfeng

²⁰ Memorial by Guiliang, Huashana, and Qiying, XF 8/5/*bingzi*, *YWSM*, XF/25, 17 in *SKQS*, vol. 417.

²¹ T.F. Wade, 'Memorandum of a Conference between Commissioners Kweiliang and Hwashana, and Mr. Bruce, in the suburb of Tien-tsin, on June 24, 1858' in *BPP*, vol. 33, 757. See also Edict to the Grand Council, XF 8/5/*jiashen* (20 June 1858), *YWSM*, XF/25, 39 in *SKQS*, vol. 417.

²² Wade, 'Memorandum' in *BPP*, vol. 33, 757.

²³ Memorial by Guiliang and Huashana, XF 8/5/*wuzi* (24 June 1858), *YWSM*, XF/26, 24-25, in *SKQS*, vol. 417.

²⁴ Imperial Edict, XF 8/5/*wuzi*, (24 June 1858), *YWSM*, XF/26, 29 in *SKQS*, vol. 417.

²⁵ Memorial by Guiliang and Huashana, XF 8/5/*gengyin* (26 June 1858), *YWSM*, XF/26, 29 in *SKQS*, vol. 417.

gave his assent to the treaty on 3 July 1858.²⁶ He would later retract his support and refuse to ratify the treaty resulting in a renewal of hostilities, but for the time being, in Oliphant's triumphant declaration, the treaty 'effected the great object of revolutionising the system under which our political and commercial relations with the [Qing] Empire were to be for the future conducted'.²⁷ This revolution also affected collaborative imperial hydrarchy.

Collaborative Imperial Hydrarchy in the Treaty of Tientsin

Britain and China had cooperated, albeit on an *ad hoc* basis, in dealing with piracy as early as 1842. Before 1858, this collaboration was often a provisional, local arrangement based on inconsistent understandings of Article IX of the Treaty of the Bogue and international law between British officials and naval personnel and their Qing counterparts.²⁸ The Treaty of Tientsin established a firmer legal basis for Anglo-Qing collaborative imperial hydrarchy. Prior to the signing of the treaty, the extent of British and Qing jurisdiction over Chinese pirates was unclear, and the *Arrow* incident served as an extreme example of the disastrous outcomes that could result from misunderstandings in the matter. The Treaty of Tientsin established clearer limits on British and Qing authorities' jurisdiction over each other's subjects in China. Articles XVI and XVIII gave Qing officials jurisdiction over Chinese criminals who committed crimes against British subjects but also gave these officials a responsibility to indemnify British victims of Chinese crime.²⁹ Chinese criminals, even those who committed crimes against British subjects, were by treaty under Qing jurisdiction. Article XIX extended this responsibility to Chinese waters, making it 'the duty of the Chinese authorities to use every endeavor to capture

²⁶ Imperial Decree, 3 July 1858, translator unknown in *BPP*, vol. 33, 763. Oliphant, *Narrative*, 433-434.

²⁷ Oliphant, *Narrative*, 447.

²⁸ Preston and Major, *Send a Gunboat*, 52. Ivan Lee, 'British Extradition Practice in Early Colonial Hong Kong', *law & history* 6, no. 1 (2019), 89.

²⁹ Article XVI, 'The Treaty of Tientsin' in Imperial Maritime Customs (IMC), *Treaties, Conventions, Etc. between China and Foreign States*, vol. 1 (Shanghai: Statistical Department of the Inspectorate General of Customs, 1908), 217. The article also stipulated that British criminals in China were subject to British law as administered by consuls or some 'other Public Functionary authorized thereto'. Article XVIII, *ibid*, 218.

and punish... robbers or pirates' who plundered British vessels and to restore stolen property to consular authorities.³⁰ Article XXI abrogated the problematically executed Article IX of the Treaty of the Bogue and established a new regime for extradition in which Qing officials had the right to request the extradition of Chinese fugitives from Hong Kong or British vessels and residences at the treaty ports.³¹ These treaty clauses shifted responsibility for and jurisdiction over Chinese pirates to Qing officials.³²

While Britain decided to saddle the Qing government with the responsibility for prosecuting pirates, the Treaty of Tientsin also stipulated increased British participation in suppressing piracy. Article LII, as per negotiations, granted ships of the Royal Navy, 'coming for no hostile purpose or being engaged in the pursuit of Pirates', access to 'all Ports within the Dominions of the Emperor of China'. Qing officials were to permit British warships to purchase provisions and refit or make repairs at any port, including those not open by treaty. Furthermore, British naval officers were given the right to 'hold intercourse with the Chinese authorities, on terms of equality and courtesy'.³³ This article undermined repeated Qing attempts to exclude foreign warships from its inner seas and rivers. It allowed the Royal Navy access to parts of China not opened to foreigners, impinging on Qing maritime sovereignty. Suppressing piracy provided a justification for the expansion of British naval activity in China. British negotiators intended for this expansion to facilitate cooperation with the Qing state against pirates. Article LIII stipulated that 'in consideration of the injury sustained by Native and Foreign commerce from the prevalence of piracy, in the seas of China, the High Contracting Parties agree to concert measures for its suppression'.³⁴ Articles XVI, XVIII, XIX, XXI, and LII of the Treaty of Tientsin set the legal framework for this cooperation.

The Treaty of Tientsin mandated an Anglo-Qing collaborative imperial hierarchy for suppressing piracy. The system codified in the treaty gave Qing officials responsibility over

³⁰ Article XIX, *ibid.*

³¹ Article XXI, *ibid.* Lee, 'British Extradition', 92.

³² Jonathan Chappell, 'Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842-1869', *The International History Review* 40, no. 3 (2018), 482-483.

³³ Article LII, 'Treaty of Tientsin' in IMC, *Treaties*, vol. 1, 227.

³⁴ Article LIII, *ibid.*

Chinese pirates while the Royal Navy retained a right to act against them in Chinese waters. The treaty thus represented compromise between British and Qing understandings of piracy. Britain relinquished universal jurisdiction over piracy in China leaving it, like other crimes by Qing subjects, a matter to be dealt with by Qing tribunals. At the same time, British officials used cooperation in suppressing piracy to violate Qing sovereignty by granting the Royal Navy access to all Chinese waters. The unwritten implication was that the Royal Navy had the right to act against pirates anywhere in China and submit them to Qing jurisdiction. The British notion of pirates as enemies of all was reconciled with the Qing conceptualisation of Chinese pirates as criminals solely within Qing jurisdiction. The collaborative imperial hierarchy codified in the Treaty of Tientsin syncretised an understanding of piracy on the China Coast that amounted to what Arnulf Becker Lorca calls ‘mestizo international law’ in which non-Western jurists’ asymmetric negotiations with the European-dictated law of nations influenced the development of international law.³⁵ Cooperation with the British against pirates was one way Qing authorities engaged and contributed to the mestizo international law on the China coast.

Suppressing Piracy between the Treaties

News of the signing of the Treaty of Tientsin reached Canton on 13 July 1858, and peace proclamations were posted on 26 July.³⁶ Though the treaty nominally ended the undeclared war, Whitehall decided that before the payment of indemnities and ‘until the restoration of order, and an improved feeling towards British subjects on the part of the population of Canton’, the city would remain under allied occupation.³⁷ The effects of the treaty were not immediate.

³⁵ See Arnulf Becker Lorca, *Mestizo International Law: A Global Intellectual History, 1842-1933* (Cambridge: Cambridge University Press, 2014). The Treaty of Nanking and subsequent negotiation and compromises at the treaty ports were an important Qing contribution mestizo international law. Ibid, 86-88.

³⁶ Entries for 14 and 26 July 1858, Papers of Harry Edmund Edgell (EDG)/3, Caird Library of the National Maritime Museum (NMM), Greenwich, UK. The treaty was distributed widely. By February 1859 versions of the ‘*Tratado de Teen-tsin*’ in Portuguese and English were being sold for \$1 at Macau. *O Boletim do Governo de Macao, Solor e Timor*, vol. 5, no. 22. 26 March 1859, 88.

³⁷ Malmesbury to Elgin, 25 September 1858 in *BPP*, vol. 33, 781.

Cuthbert Ward Burton, a Royal Marine stationed with the Allied Commissioners' yamen at Canton, complained that 'diplomacy is always so slow' four months after receiving notice of the treaty.³⁸ Peace nonetheless mollified the Cantonese and a relative calm eventually returned to the city. The problem of piracy was reduced to the point that the allies agreed to allow the resumption of Chinese junk traffic in Canton.³⁹ By October 1858, Rear-Admiral Seymour remarked that 'no disturbance of the general tranquillity thus brought about [by the Treaty of Tientsin] has arisen; Canton agitations have subsided'.⁴⁰ That December, Seymour stated to Commodore Charles Elliot, senior naval officer in the Canton River, that 'the police of the River is entirely in the hands of the Chinese Authorities... our vessels are not to detain Chinese Craft on suspicion of their being Pirates (or River Robbers), except when actually caught in the Act', and even then such pirates were to be 'delivered over... to the Chinese authorities through the medium of the British Consul'.⁴¹ The mestizo international law of piracy as stipulated in the Treaty of Tientsin, in which Qing authorities were responsible for dealing with pirates but could rely on British assistance, was being applied in occupied Canton. It would be executed elsewhere along the South China coast as well.

Though piracy subsided in Canton, the problem persisted in the vicinity of Hong Kong and in the waters of western Guangdong. In response, Captain Nicholas Vansittart, in HMS *Magicienne*, along with HMS *Inflexible*, *Plover*, and *Algerine*, set out on an anti-piracy cruise accompanied by Daniel Caldwell and 'three Chinese informers'. The force 'examined carefully the whole coast as far Westward as Mamee'. Between 26 August and 4 September 1858, the expedition 'destroyed one fortified stockade mounting 14 Guns, 26 Piratical fighting junks, 74 fast row boats, 236 Guns' with 'about 372 Pirates killed, 36 Pirates taken alive'. On this occasion,

³⁸ Cuthbert Ward Burton to Mrs. Burton, 13 November 1858, 'A Series of 84 letters written to his mother Mrs. Alfred Burton during his service on the China Station, 1853-1858', Burton Family Papers (BUR)/Major-General Cuthbert Ward Burton (Royal Marines) (101), NMM.

³⁹ Steven A. Leibo, 'Not So Calm an Administration: The Anglo-French Occupation of Canton, 1858-1861', *Journal of the Royal Asiatic Society Hong Kong Branch* 28 (1988), 25.

⁴⁰ Seymour to Pakington, 29 October 1858, No. 11, Corbett Papers (CBT)/Manuscripts (29)/Letters of Admiral Sir Michael Seymour (6), NMM.

⁴¹ Seymour to Elliot, 3 December 1858, Admiralty Records (ADM) China Station Correspondence (125)/3, 391-392, The National Archives (TNA), Kew, UK.

the Royal Navy also rescued '6 Cargo Junks... 54 men and 6 women'.⁴² The expedition engaged pirates at 'Ling-ting [Lintin]', 'Coulán Bay', 'Hawcheun [Xiachuan] Bluff', and 'Tywooshan [Dahuoshan]'. British forces landed at Lintin and Coulán where they set fire to a settlement. Rather than bring the pirates back to Hong Kong or send them to Kowloon, Vansittart reported proceeding 'to Mamee where sending for the Mandarin I handed over to him 22 Pirates for his disposal'.⁴³ Being west of Xiachuan, which was under the jurisdiction of Xinning, Mamee was well beyond the territorial waters of Hong Kong or the jurisdiction of the Kowloon authorities and their superiors in the district of Xin'an. Nor was Mamee a treaty port. Article LII of the Treaty of Tientsin justified Vansittart's visit to Mamee and his communications with Qing officials there. This was not the first time a Royal Navy officer had delivered pirates to Qing officials outside the treaty ports. The captives from the expedition against Shap-ng-tsai in 1849 were handed over to Huang Kaiguang, a military mandarin from Haikou, a decade before it was opened as a treaty port. Whereas Commander Hay acted on the authority of a '*carte blanche*' unilaterally issued by the commander-in-chief of the East Indies and China Station, Captain Vansittart could justify his actions through the Treaty of Tientsin.⁴⁴ The Shap-ng-tsai expedition was exceptional in that it involved British and Qing officials outside of the treaty ports and Kowloon. The Treaty of Tientsin permitted such an extension of collaborative imperial hierarchy; the Royal Navy could now cooperate with and hand captured pirates to Qing officials at any port in China, not merely those opened to foreign trade and residence or Kowloon.

On 21 September 1858, pirates plundered the *Pantaloön*, a ship belonging to Jardine, Matheson & Co., after it was shipwrecked in a typhoon. The pirates came from 'the town of Sow-ah-pow, a well known Piratical Town some miles up the narrow channel on the opposite

⁴² Vansittart to Seymour, 4 September 1858, ADM 125/3, 71. I have been unable to find the Chinese name of Mamee.

⁴³ Vansittart, 'Detailed Account of the Proceedings of H.M. Ships *Magicienne*, *Inflexible*, *Plover*, and *Algerine*, When Upon a Cruise for the Suppression of Piracy', 4 September 1858, ADM 125/3, 75-80.

⁴⁴ John C. Dalrymple Hay, *Lines from my Log-book* (Edinburgh: David Douglas, 1898), 178. During the expedition against Shap-ng-tsai, Commander Hay also met with 'the Mandarins at Mamee'. *China Mail*, 29 November 1849.

side of Swatow'.⁴⁵ As early as the 1820s, Jardine, Matheson & Co. had established illicit operations at Swatow (Shantou).⁴⁶ By 1857, J. Jardine pointed out that Swatow, a port up the Han River on the Guangdong side of the provincial border with Fujian, was 'the station of incomparably the greatest importance which is not recognized by Treaty'.⁴⁷ Elgin visited Swatow on his way to Shanghai to make his first attempts to negotiate a new treaty. He noted a small foreign presence 'chiefly engaged in the opium and emigrant trades'.⁴⁸ The Treaty of Tientsin opened Swatow, along with Niuzhuang (Yingkou), Dengzhou (Yantai), 'Formosa' (in this case, the southern city of Tainan), and Qiongzhou (namely the port of Haikou) as treaty ports.⁴⁹ In 1858, however, no British consular authority had been established at Swatow, so the visit of HMS *Fury* to the port in October in response to the attack on *Pantaloön* amounted to an exercise of the Royal Navy's right under Article LII.⁵⁰ Also in accordance with that article, the naval officer in charge communicated directly with local Qing officials. Commander Charles Leckie reported that 'I placed myself in communication with the Mandarin of the district', and learned that local authorities lacked sufficient force to make the piratical villagers return the sugar stolen from the *Pantaloön*.⁵¹ Though Qing officials in the region could not retrieve the stolen sugar from the villagers, the pirates could not dispose of their plunder 'owing to the Mandarins having kept back purchasers by intimidation'.⁵² By preventing the sale of stolen British property, local authorities attempted to uphold Qing treaty responsibilities.

On 16 October, HMS *Fury* advanced on Sow-ah-pow to recover the plundered sugar. Meanwhile, an armed party of Royal Marines and bluejackets 'advanced up the creek leading to the rendezvous appointed by the Mandarin of the district', but the official never appeared.⁵³

⁴⁵ Nicholas Vansittart to Seymour, 20 October 1858, ADM 125/3, 241. I have been unable to find the Chinese name of Sow-ah-pow. Xue Er transliterates the name as 'Shaoaopu'. Xue Er, *Daguo haidao* [The Country's Pirates] (Taipei: Shanxi renmin chubanshe, 2013), 233.

⁴⁶ Robert Nield, *China's Foreign Places: The Foreign Presence in China in the Treaty Port Era, 1840-1943* (Hong Kong: Hong Kong University Press, 2015), 213.

⁴⁷ J. Jardine to Elgin, 1 October 1857, *BPP*, vol. 33, 503.

⁴⁸ Elgin to Clarendon, 6 March 1858 in *BPP*, vol. 33, 644.

⁴⁹ Article XI, 'Treaty of Tientsin', in IMC, *Treaties*, vol. 1, 216.

⁵⁰ A British consul was not stationed at Swatow until 1860. See Nield, *China's Foreign Places*, 217-218.

⁵¹ Leckie to Vansittart, 18 October 1858, ADM 125/3, 245.

⁵² Barton to Leckie, 10 October 1858, ADM 125/3, 253.

⁵³ Leckie to Vansittart, 18 October 1858, ADM 125/3, 247.

When ‘many hundreds of men, armed chiefly with matchlocks & some gingsals’ met the *Fury* and opened fire, British forces retaliated. The naval contingent returned the pirates’ fire from the boats on the river, and Leckie landed a force to counterattack. The British force continued to face resistance, however, and ‘when the Pirates kept up a continuing fire, retreating and taking up other positions as they went’, Leckie decided that ‘a good bombardment from the boats would be more advisable and more likely to be the means of recovering the sugar, than if we went in and set fire to the Town’.⁵⁴ He reported that, prior to the bombardment, ‘I was informed by the villagers on the opposite side of the creek that the pirates had heard we were coming and had sent their women and children away the day before, and were quite prepared to meet us’. He also emphasised that ‘it was not my intention to fire upon the town unless the Mandarin considered it advisable’.⁵⁵ After the bombardment of Sow-ah-pow, Leckie sent a letter to the ‘Heads of the village’ demanding the return of the sugar and threatening a second attack if the piratical villagers did not comply.⁵⁶ The village heads replied that ‘they are willing to hand over the sugar, & come to any settlement’.⁵⁷ Leckie discussed the results of his expedition with the ‘Head Mandarin of the district, stating circumstances, and reporting this promise to return the sugar’.⁵⁸ Having done their duty of attacking pirates, British naval officers expected Qing officials to restore stolen property as stipulated in the Treaty of Tientsin.

The following year, Royal Navy and Qing officers discussed a piracy at ‘Capchi Point [Jiazi, also spelled ‘Cupchi’]’, where the SS *Five Brothers* struck a rock on 28 January 1859. When passengers from the steamer landed on the ‘Mainland’, they were ‘beaten, robbed, and when resistance was shown, murdered without mercy’. The *Five Brothers* was eventually surrounded by ‘about 80 large boats... filled with men armed with spears &c’ and the master of the steamer reported that ‘a large party on shore kept up a continual fire upon us with matchlocks, and about 4 P.M. they mounted a large gun on the rocks over looking us’, fire from which drove the crew

⁵⁴ Vansittart to Seymour, 20 October 1858, ADM 125/3, 242.

⁵⁵ Leckie to Vansittart, 18 October 1858, ADM 125/3, 248, 250.

⁵⁶ Ibid, 249. Vansittart to Seymour, 20 October 1858, 242-243.

⁵⁷ Vansittart to Seymour, 20 October 1858, ADM 125/3, 243.

⁵⁸ Leckie to Vansittart, 18 October 1858, ADM 125/3, 250.

to abandon ship.⁵⁹ The Royal Navy responded to this attack on a British ship far away any treaty port by dispatching HMS *Niger*, *Nimrod*, and *Plover* to Jiazi, ‘about 150 miles to the North of Hong Kong’, well beyond the colony’s jurisdiction.⁶⁰ Rear-Admiral Seymour requested that Governor John Bowring send an interpreter to accompany the expedition.⁶¹ On 2 February, Captain Cracroft of HMS *Niger*, who led the British flotilla, ‘proceeded to the town with the armed boats and demanded an interview with the authorities’. ‘A military mandarin’ met with Cracroft and stated that ‘measures were being taken to discover’ the plunderers of the *Five Brothers*. According to Cracroft, the mandarin claimed:

some of the Villages were wholly beyond the control of the mandarins, and requested I would punish them in any way I thought proper, as a warning to deter others from committing a similar offence; the South-western suburb of Cupchi itself being especially pointed out as requiring to be made an example of, being the resort of men half fishermen and half pirates.⁶²

While British officers could use Article LII to access Chinese ports beyond the treaty system, Qing officials could use Article LIII and its stipulations for British cooperation with China against piracy to deploy the might of the Royal Navy to bolster Qing authority over recalcitrant villages. The Jiazi mandarin’s request that Cracroft punish the ‘half fishermen and half pirates’ beyond Qing control was an explicit example of Murakami Ei’s claim that the Qing use of the Royal Navy amounted to a co-opting of the Royal Navy akin to the *zhaofu* system of pardon and re-assimilation into Qing naval forces offered to the *ladrones* more than half a century earlier.⁶³ The Treaty of Tientsin provided a framework for local Qing officials to apply a similar system to support their authority with the most powerful navy in the world.

With authorisation from Qing officials, Cracroft landed a party at Jiazi on 3 February and demanded ‘an indemnity from the Elders for the loss of Life and property that had taken place,

⁵⁹ Smith to Seymour, 29 January 1859, ADM 125/3, 610, 613, 616-617.

⁶⁰ Seymour to Admiralty, 11 February 1859, ADM 125/3, 665.

⁶¹ Seymour to Bowring, 31 January 1859, Letterbooks (LBK)/Letterbooks of Admiral Sir Michael Seymour GCB during the Second China War (79), 449, NMM.

⁶² Cracroft to Seymour, 5 February 1859, ADM 125/3, 668.

⁶³ Murakami Ei, *Haiyang shishang de jindai Zhongguo: Fujian ren de huodong yu Yingguo, Qingchao de yinying* [A Modern Maritime History of China: Fujianese Activity and British and Qing Responses], trans. Wang Shilun (Beijing: Social Sciences Academic Press, 2013), 238. On *zhaofu*, see Introduction, note 71.

threatening them with the destruction of their Villages if my demand was not complied with'. When his demands were ignored, Cracroft 'directed a few Rockets to be thrown into the place, and the fishing boats off it to be set on fire'. He reported that 'these measures had the desired effect and [the elders] came off to sue for mercy'. Cracroft ultimately 'accepted the sum of \$2,500 Dollars [sic] from the Elders of the suburb and Villages', which Seymour ordered him to forward to Bowring at Hong Kong.⁶⁴ Seymour approved of Cracroft's actions 'in demanding reparation and indemnity of the Authorities for the illtreatment of the Passengers and crew of the wrecked Steam Vessel "Five Brothers"'.⁶⁵ The Royal Navy had punished a piratical village on behalf of Qing officials to obtain reparations that would be distributed at the British colony of Hong Kong. This transnational operation exemplified the new collaborative imperial hydrarchy as codified in the Treaty of Tientsin.

Though the treaty was signed between Britain and China, the system cooperation against pirates that it codified allowed for the inclusion of other foreign states on the China coast, particularly Portugal, with its settlement at Macau. The alliance between Portugal and Britain, one of the oldest in Europe, also applied on the China coast, meaning that Britain had an obligation to 'assist in the defence of the Establishments in [Macau] against Chinese aggression'.⁶⁶ By the mid-nineteenth century, the principal threat to Macau came not from Qing forces but from Chinese pirates. The British suppression of piracy in western Guangdong was as much a benefit to Macau as it was to Hong Kong. When news of pirates at their 'old haunt at Coolan [Coulán]' to the southwest of Macau, reached Seymour in March 1859, he sent HMS *Niger*, commanded by Captain George Colvile, along with the gunboats *Janus* and *Clown* to deal with the problem.⁶⁷ Colvile proceeded to Macau to seek information on the pirates, where he learned that 'a fleet of Piratical vessels [was] cruising in the vicinity of the Tang Rocks' and went after them. From a fortified pirate camp on Coulán, pirates and villagers fired on the British

⁶⁴ Cracroft to Seymour, 5 February 1859, ADM 125/3, 668-669 and Seymour to Bowring, 18 February 1859, LBK/79, 464-465.

⁶⁵ Seymour to Cracroft, 11 February 1859, LBK/79, 456, 464-465.

⁶⁶ Addington to Stephen, 6 November 1843, Colonial Office Records (CO) Hong Kong, Original Correspondence (129)/3, 367, TNA

⁶⁷ Seymour to Bowring, 17 March 1859, LBK/79, 481.

flotilla. Colvile responded by landing a force and, upon discovering that ‘every house in the Town was a Magazine in which large quantities of arms and munitions were stored’, ordered the destruction of the entire village along with ‘eight large Piratical Junks, eleven Fast Boats’, and ‘the land defences’. After punishing Coulan, Colvile met with ‘a Mandarin Junk force just arrived from Macao’, which informed him ‘that seven Pirate Junks were at anchor off Lie-wan-moon opposite Moto [Modaomen]’ up the West River (Xijiang). The Royal Navy force proceeded upriver after the pirates. When one of the pirate junks was driven aground, ‘her crew [was] immediately pounced upon by Mandarin Soldiers’. Colvile reported that ‘exclusive of the crew who fell into the hands of the mandarins, Twenty one Pirates were killed on this occasion’.⁶⁸ Rear-Admiral Seymour approved of this ‘essential service rendered to the community at large’.⁶⁹ This community included British, Qing, and Portuguese subjects.

Coulan, though long a site of operations against pirates, most notably the 1854 expedition involving British, Qing, American, and Portuguese forces, was not a treaty port. Prior to the Treaty of Tientsin, the Royal Navy had no legal basis to visit the island, let alone land a force to burn villages and fortifications on it. With the notable exception of Macau at its mouth, the West River had no foreign presence and was not opened to foreign trade until 1897.⁷⁰ Colvile’s expedition to Coulan and up the West River, based on Portuguese and Qing intelligence, was the first in the region to have a legal basis in treaty. The cooperation in suppressing piracy mandated in the Treaty of Tientsin, however, made no mention of Portugal. Portugal signed the *Tratado de Tien-tsin* with China in 1862, which replicated the cooperative system created in the Anglo-Qing Treaty of Tientsin. The Luso-Qing treaty, however, was not ratified until 1887.⁷¹ Before this, Britain’s alliance with Portugal and Macau’s proximity to Hong Kong and the perpetual pirate haunt of Coulan occasionally resulted in Portugal’s inadvertent inclusion in

⁶⁸ Colvile to Seymour, 16 March 1859, ADM 125/3, 759-763. I have been unable to find the Chinese name of Lie-wan-moon.

⁶⁹ Seymour to Bowring, 17 March 1859, LBK/79,

⁷⁰ Henry Sze Hang Choi, *The Remarkable Hybrid Maritime World of Hong Kong and the West River Region in the Late Qing Period* (Leiden: Brill, 2017), 105-107.

⁷¹ Nield, *China’s Foreign Places*, 157-158. See *Artigos* XVIII, XIX, XXI and L in ‘The Treaty of Tientsin, 1862’ in IMC, *Treaties*, vol. 2, 987-1008.

the collaborative imperial hydrarchy over Chinese waters. The Treaty of Tientsin in this way paved the way for a more international suppression of piracy in China. The treaty was not immediately accepted by the Qing government, however. It would take a resumption of hostilities, the occupation of the Qing imperial capital of Beijing, and another treaty before the emperor assented to the terms of the Anglo-Qing Treaty of Tientsin.

Resumption of Hostilities and the Convention of Peking

The final article of the Treaty of Tientsin decreed that the ‘Ratification of the Treaty, under the Hand of Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of China, respectively, shall be exchanged at Peking within a Year’ of the treaty’s signing on 26 June 1858.⁷² Accordingly, London appointed Frederick Bruce, Lord Elgin’s brother and a former colonial secretary at Hong Kong, as ‘Her Majesty’s Envoy Extraordinary and Minister Plenipotentiary in China’ to ‘exchange at Peking, Her Majesty’s ratification of the Treaty of Tien-tsin with the ratification of that compact by the Emperor of China’. Bruce was also commissioned as ‘Chief Superintendent of British Trade’ and ordered to ‘relieve Sir John Bowring of his duties in connection with this office, and... make arrangements for transferring the general direction of British affairs in China to Shanghai, at which port it is to be carried on until such time as circumstances shall admit of its being permanently established at Peking’.⁷³ Thus began the shift of the ‘capital of Anglo-China’ and the hub of Anglo-Qing relations from Hong Kong to Shanghai.⁷⁴ Guiliang and Huashana, along with two other imperial commissioners, Jiangnan and Jiangxi Governor-General He Guiqing and the provincial vice-director of the Board of Punishments, Duan Chengshi, ‘waited for Chieftain Bruce to arrive in Shanghai to continue negotiations’.⁷⁵ Though Guiliang and Huashana assented to the Treaty of

⁷² Article LVI of the Treaty of Tientsin, in IMC, *Treaties*, vol. 1, 228.

⁷³ Malmesbury to Bruce, 1 March 1859 in *BPP*, vol. 34, 59.

⁷⁴ Christopher Munn, *Anglo-China: Chinese People and British Rule in Hong Kong, 1841-1880* (Hong Kong: Hong Kong University Press, 2009; originally published by Curzon Press, 2001), 335.

⁷⁵ Memorial by Guiliang, Huashana, He Guiqing, and Duan Chengshi, XF 9/4/*wuxu* (20 May 1859), *YWSM*, XF/37, 10 in *SKQS*, vol. 417

Tientsin and got Emperor Xianfeng's approval, the emperor believed that certain of the treaty's provisions could be renegotiated and that his subordinates could be lax in its execution.⁷⁶ A year after the signing of the treaty, Qing ministers still wanted to renegotiate the matters of foreign ministers at Beijing, opening the Yangtze, opening Tianjin or any other part of the province of Zhili as a treaty port, and granting foreign access to the interior of China. The imperial commissioners at Shanghai promised to 'continue to negotiate our way in the four issues'.⁷⁷

Bruce suspected that the imperial commissioners were trying to prevent his passage to Beijing for the ratification of the Treaty of Tientsin.⁷⁸ Indeed Guiliang, Huashana, He, and Duan had in fact 'secretly made plans to detain the barbarians at Shanghai and exchange ratifications there'.⁷⁹ In defiance of these plans, Bruce declared to the imperial commissioners that 'no stipulation of the Treaty shall be violated' and insisted that his 'resolution to proceed to Peking without further delay is inflexible'.⁸⁰ In response to Bruce's approach, Emperor Xianfeng ordered Sengge Rinchen, the Mongol nobleman tasked with protecting Tianjin, to prevent an allied advance up the Haihe and to warn them that 'there are defences which cannot be easily passed and may cause harm'.⁸¹ Despite Qing deliberations and warnings against the allied advance up the Haihe, Bruce and his French counterpart, Alphonse de Bourboulon, decided that 'we should insist, as much for the sake of our future communications with Peking as for the successful accomplishment of the mission now confided to us, on the right of using the river as the natural highway to the capital'.⁸² On 21 June 1859, Bruce and de Bourboulon handed the matter of exercising this right to Rear-Admiral James Hope, authorising him 'to take any measures you may deem expedient for clearing away the obstructions in the river, so as to allow

⁷⁶ Edict to the Grand Council, XF 8/5/*gengyin* (26 June 1858), *YWSM*, XF/26, 30 in *SKQS*, vol. 417.

⁷⁷ Memorial by Guiliang, Huashana, He, and Duan, XF 9/4/*wuwu* (20 May 1859), *YWSM*, XF/37, 10 in *SKQS*, vol. 417.

⁷⁸ Bruce to Malmesbury, 4 May 1859 in *BPP*, vol. 34, 61.

⁷⁹ Memorial by Guiliang, Huashana, He, and Duan, XF 9/5/*yihai* (6 June 1859), *YWSM*, XF/38, 2 in *SKQS*, vol. 417.

⁸⁰ Bruce to the Imperial Commissioners, 8 June 1859 in *BPP*, vol. 34, 71.

⁸¹ Edict to the Grand Council, XF 9/5/*bingzi* (7 June 1859), *YWSM* XF/38, 5 in *SKQS*, vol. 417.

⁸² Bruce to Malmesbury, 5 July 1859 in *BPP*, vol. 34, 75.

us to proceed at once to Tien-tsin'.⁸³ After the defeat resulting in the signing of the Treaty of Tientsin, Qing commanders had realised the vulnerabilities of the Dagu forts and made efforts to reinforce them.⁸⁴ After Sengge Rinchen reported that 'barbarian boats are continuously entering the river from the sea' on 22 June, he further reinforced Qing defences.⁸⁵ Two days later, the Hope's force began clearing obstacles in the Haihe for the advance to Tianjin. On 25 June, the British gunboats commenced an attack on the Dagu forts.

Qing reinforcements to the Dagu forts proved worthwhile. The forts 'opened with so heavy and well-directed a fire as to render the operation of removing the barriers impossible'.⁸⁶ The improvements to the fortifications withstood the shot and shell of the gunboats. The effectiveness of the fire from Qing forces and the strength of the fortifications led British observers to suspect that China had received foreign help.⁸⁷ By the end of the battle, Sengge Rinchen's forces had destroyed six of the eleven gunboats sent up the Haihe and repulsed an allied landing party. British forces suffered 519 killed and 456 wounded. The repulse at Dagu remains the worst British defeat in China.⁸⁸ Qing commanders reported that 'once we opened fire, the situation changed entirely' and declared that the victory 'slackened the arrogance of the barbarians'.⁸⁹ Indeed, after the Dagu repulse, Rear-Admiral Hope concluded that 'the means at my disposal have proved insufficient to remove the obstacles opposed to your entry at the mouth of the Peiho; and that they are of so formidable a nature that any further operations cannot lead to a successful result'.⁹⁰ Bruce, commenting that 'in this, more than in almost any country, we are respected and considered in proportion as we are feared', lamented that 'whatever may be the ultimate decision of this Government with reference to the Treaty of

⁸³ Bruce to Hope, 21 June 1859 in *BPP*, vol. 34, 78.

⁸⁴ Graham, *China Station*, 369.

⁸⁵ Edict to the Grand Council, XF 9/5/*xinmao* (22 June 1859), *YWSM*, XF/38, 31 in *SKQS*, vol. 417.

⁸⁶ Bruce to Malmesbury, 5 July 1859 in *BPP*, vol. 34, 76-77.

⁸⁷ Graham, *China Station*, 373-374. James Hevia, *English Lessons: The Pedagogy of Imperialism in Nineteenth-Century China* (Durham, NC: Duke University Press, 2003), 40-41.

⁸⁸ Graham, *China Station*, 375-377. Bruce A. Elleman, *Modern Chinese Warfare, 1795-1989* (London: Routledge, 2001), 49.

⁸⁹ Memorial by Sengge Rinchen and Hengfu, XF 9/5/*binjia* (27 June 1859), *YWSM*, XF/38, 41 in *SKQS*, vol. 417.

⁹⁰ Hope to Bruce, 1 July 1859 in *BPP*, vol. 34, 79.

Tien-tsin, I do not think that its provisions can be carried out until we recover our superiority in the eyes of the Chinese'.⁹¹

News of the Dagu repulse reached Britain in September 1859 to much criticism.⁹² Britain sought retribution. The French desire to avenge the defeat at Dagu and the arrogance with which Qing officials received John Ward, the American ambassador to China, during the ratification of the American treaty, pressured the British government to recommence hostilities with China.⁹³ In October, Foreign Secretary Lord John Russell reassured Bruce that 'preparations are being made both in this country and in France in order that the Treaty of Tien-tsin may be fully carried into effect'.⁹⁴ Later that month, Whitehall ordered Bruce to demand an apology 'for the act of the troops who fired on Her Britannic Majesty's ships of war from the Takoo forts in June last' and to insist on the ratification of the Treaty of Tientsin; otherwise, the 'British naval and military authorities' would 'adopt such measures as they may deem advisable for the purpose of compelling the Emperor of China to observe the engagements contracted for him by his Plenipotentiaries at Tien-tsin'.⁹⁵ In November, British and French commanders made plans to assemble a force at Hong Kong which would then proceed northward to compel the Qing authorities into compliance.⁹⁶

On 8 March 1860, Bruce issued an ultimatum to the Qing government demanding apologies and an indemnity for the Dagu repulse, permission to proceed up the Haihe and ratify the Treaty of Tientsin at Beijing, and the right for a British minister to reside at the capital.⁹⁷ He Guiqing rejected the British demands.⁹⁸ The following month, Whitehall sent Lord Elgin, as 'Ambassador Extraordinary', back to China to resolve the conflict with authority to apply force

⁹¹ Bruce to Malmesbury, in *BPP*, vol. 34, 83.

⁹² Graham, *China Station*, 378.

⁹³ Hevia, *English Lessons*, 41-42. The French already considered themselves at war with China. Graham, *China Station*, 380.

⁹⁴ Russell to Bruce, 10 October 1859 in *BPP*, vol. 34, 99.

⁹⁵ Russell to Bruce, 29 October 1859 in *BPP*, vol. 34, 120.

⁹⁶ Admiralty to Hope, 10 November 1859 in *BPP*, vol. 34, 165.

⁹⁷ Bruce to Pang-Wan-chang, 8 March 1860 in *BPP*, vol. 34, 138-139.

⁹⁸ Ho to Bruce, 5 April 1860, trans. Wade in *BPP*, vol. 34, 141-142.

possibly even at Beijing if necessary.⁹⁹ The prime minister, Lord Palmerston, indeed believed that 'the occupation by a barbarian army of a capital into which even a barbarian diplomat is not to be admitted... would bring the Emperor to reason'.¹⁰⁰ Elgin himself hoped such a measure would not be necessary and that the menace of the allied occupation of Tianjin would be enough to bring Qing representatives to the negotiating table, as it had in 1858.¹⁰¹

From March to May 1860, the Anglo-French force meant to assert pressure on the Qing Empire to comply with the British ultimatum assembled at Hong Kong.¹⁰² The British expeditionary force sent to China numbered some 14,000 men and about 1,800 horses. France sent a force of 7,000 men. The allied forces were further augmented by 2,500 men of the 'Canton Coolie Corps', recruited in Hong Kong and Canton to provide labour and logistical support.¹⁰³ Such a massive force could not be easily accommodated on the tiny, rocky island of Hong Kong. On the other side of Victoria Harbour, Kowloon, with its abundance of water and large sandy plain, was an ideal place for a military encampment, and the allies decided to use it for this purpose.¹⁰⁴ On 16 March, Lieutenant-General James Hope Grant ordered a detachment the 44th (East Essex) Regiment to land at Kowloon in preparation 'to occupy the promontory' as a 'temporary encamping ground for the troops... for whom there is no convenient space at Hongkong'.¹⁰⁵ Hercules Robinson, John Bowring's successor as governor of Hong Kong, approved of the measure and hoped that the stationing of British troops at Kowloon would 'maintain order among the thieves and pirates who have established themselves in the centre of our harbour'.¹⁰⁶ Though serving a military function, the British occupation of Kowloon, as discussed below, also had implications for British authority in Victoria Harbour.

⁹⁹ Russell to Elgin, 17 April 1860 in *BPP*, vol. 34, 191.

¹⁰⁰ Palmerston to Sidney Herbert, 20 April 1860, quoted in Graham, *China Station*, 383.

¹⁰¹ Graham, *China Station*, 381.

¹⁰² *Ibid*, 385.

¹⁰³ Alan Harfield, *British and Indian Armies on the China Coast, 1785-1985* (Farnham: A. and J. Partnership, 1990), 101-105. Graham, *China Station*, 384-387.

¹⁰⁴ Graham, *China Station* 386. G.B. Endacott, *A History of Hong Kong*, revised edition (Hong Kong: Oxford University Press, 1973), 109.

¹⁰⁵ Hope Grant to Robinson, 16 March 1860, CO 129/77, 222-223.

¹⁰⁶ Robinson to Hope Grant, 17 March 1860, CO 129/77, 224.

By landing forces at Kowloon, Britain established *de facto* control over the peninsula. To give this occupation a legal basis, Harry Parkes, one of the Allied Commissioners in occupied Canton, met Lao Chongguang, the governor-general of Guangdong and Guangxi, and negotiated a lease of Kowloon on 20 March 1860.¹⁰⁷ According to the 'Deed of Lease', Lao agreed to lease 'Tseem-sha-tsuy [Tsim Sha Tsui] and its neighborhood situated in the sub-district of Kowloon in the district of Sun-on [Xin'an]' to Britain in return for a 'Rental of Five Hundred Taels of Silver' (about £160) per annum.¹⁰⁸ Lieutenant-Colonel MacMahon of the 44th Regiment officially announced the lease of Kowloon on 24 March 1860 in a Hong Kong government notification in English and Chinese. In his announcement, MacMahon gave British military forces the responsibility of maintaining order and protecting the inhabitants of Kowloon while forbidding foreign settlement from Hong Kong.¹⁰⁹ Kowloon became a territory under British military occupation. Robinson hoped that this occupation would 'pave the way towards obtaining from the Chinese Government eventually a cession of the opposite promontory' of Kowloon.¹¹⁰ During the resumption of the *Arrow* War, however, the peninsula remained merely a stepping stone for an allied expedition to the heart of the Qing Empire.

Lieutenant-General Hope Grant and Rear-Admiral Hope met their French counterparts, General Cousin de Montauban and Vice-Admiral Leonard Charner, in Shanghai on 18 June 1860 to discuss plans for an assault up the Haihe.¹¹¹ By late July, an allied fleet consisting of over two hundred vessels had assembled outside Bohai (known in English sources as the Gulf of Pecheli) to execute these plans. Allied forces began landing on 1 August. Their advance on the Dagu forts began on 12 August.¹¹² The governor-general of Zhili sent multiple communications

¹⁰⁷ Parkes to Robinson, 22 March 1860, CO 129/77, 229. After Ye's capture, the Qing appointed Huang Zonghan as governor-general of Guangdong and Guangxi, but the allies rejected his authority. Elgin to Clarendon, 22 May 1859 in *BPP*, vol. 33, 880. The 'urgency of barbarian affairs in Guangdong' led Emperor Xianfeng to appoint Lao Chongguang, formerly the governor of Guangxi, to replace Huang. Edict to the Grand Council, XF 9/4/*wuchen* (30 May 1859), *YWSM* XF/37, 24 in *SKQS*, vol. 417.

¹⁰⁸ 'Deed of Lease', CO 129/77, 239-240. Graham, *China Station*, 386.

¹⁰⁹ See 'Government Notification', 24 March 1860 in CO 129/77, 228.

¹¹⁰ Robinson to Hope Grant, 17 March 1860, CO 129/77, 224-225.

¹¹¹ Foley to Russel, 30 June 1860 in *BPP*, vol. 34, 237-238.

¹¹² Graham, *China Station*, 396-398. Harfield, *British and Indian Armies*, 105-110.

to Elgin in hopes of starting negotiations, but as none satisfied Bruce's ultimatum, Elgin decided to allow military operations to continue, believing that 'the occupation of the Peiho forts by our military force, and the opening up of the river to Tien-tsin, should precede any serious negotiations for the establishment of peace'.¹¹³ Accordingly, the allies proceeded with their operations and captured the Dagou forts on 21 August. Allied forces then advanced on Tianjin.¹¹⁴ When negotiations there proved unsatisfactory, Elgin requested that British forces advance towards Tongzhou, twelve miles to the east of Beijing, to further pressure Qing leaders to concede to allied demands.¹¹⁵ On 17 September, a Qing force captured an advance party sent to reconnoitre Tongzhou and attempt to open negotiations there. The capture and maltreatment of this group, which included Harry Parkes, incensed the allies, who decided to attack the Qing imperial capital of Beijing in retribution.

On 7 October, French forces began looting the Summer Palace (Yuanmingyuan) of the Qing emperors. Under the threat of bombardment, the northern gates of Beijing, the Andingmen, were opened and an allied force moved in to occupy the city. The allies burned the Summer Palace as retribution for the Qing maltreatment of Parkes and other prisoners of war. This incident remains a point of national outrage in China. With the imperial capital under allied control, Qing authorities agreed to come to terms, signing the Convention of Peking on 24 October 1860.¹¹⁶ With a few adjustments, including an increase in indemnities, the Convention of Peking ratified the Treaty of Tientsin.¹¹⁷ The convention also converted Parkes's lease of Kowloon into a cession of the territory as 'a dependency of Her Britannic Majesty's Colony of Hongkong'. The stated purpose for the cession was 'a view to the maintenance of law and order in and about the harbour of Hong Kong'.¹¹⁸ Though initially occupied for military purposes, the colonisation of Kowloon became an exercise in the imperialism of free seas.

¹¹³ Elgin to Russell, in *BPP*, vol. 34, 266

¹¹⁴ See Graham, *China Station*, 398-400. Harfield, *British and Indian Armies*, 110-120.

¹¹⁵ Elgin to Russell, 8 September 1860 in *BPP*, vol. 34, 318.

¹¹⁶ See Hevia, *English Lessons*, 46-48 and Chapter Four. Graham, *China Station*, 402-404. Harfield, *British and Indian Armies*, 121-126.

¹¹⁷ Articles VII and IX, 'Convention of Peking' in IMC, *Treaties*, vol. 1, 241-242.

¹¹⁸ Article VI, in *ibid*.

British officials had designs for occupying Kowloon as early as 1857 when Rear-Admiral Seymour recommended the ‘possession of Kowloon Peninsula and Stone Cutters island’ as ‘imperatively necessary, not only to prevent its falling into the hands of another Foreign Power to the disparagement of a British Colony, but as offering security and accommodation needful to the increasing Hong Kong Community’.¹¹⁹ Major-General van Straubenzee, who made the first overtures about the cession of Kowloon to the War and Colonial Offices and to Elgin, agreed. He argued for the ‘advisability, or *almost necessity* of the cession of a small tract of land opposite Hong Kong, called Kowloon Peninsula, to the British Crown’, citing both the ‘advantages to our shipping to be derived from it being in our possession’ and ‘the danger not only to our shipping but to the town of Victoria itself should it become hereafter the possession of any other European Power’.¹²⁰ Governor Bowring also advocated for the British colonisation of Kowloon arguing that ‘the possession of this land, useless to the Chinese, would be of great value to us not only for military, but for commercial, sanitary and police purposes’.¹²¹ By 1858, Kowloon had strategic, economic, and political importance to the British colony of Hong Kong and military and civilian officials were advocating for its cession to Britain.

Ironically, Kowloon did not initially have much importance for Hong Kong. As discussed in Chapter Three, the Qing military presence in Tsim Sha Tsui was removed after the first Opium War. Tsim Sha Tsui became a sparsely populated no-man’s land outside of Qing control.¹²² William Thomas Mercer, the colonial secretary at Hong Kong, reported that Kowloon ‘was for years occupied solely by some half dozen insignificant hamlets tenanted by stone cutters and lime burners’. Around 1853, however, a ‘village began to rise at Teem-chatsuy [Tsim Sha Tsui]’ which became ‘well known as a place of reception for stolen goods of all

¹¹⁹ Seymour to Lugard, 14 August 1857, ADM 125/2, 76.

¹²⁰ Van Straubenzee to Elgin, [day missing] March 1858, CO 129/71, 200. Endacott, *History*, 109. Graham, *China Station*, 386.

¹²¹ Bowring to Lytton, 20 August 1858, CO 129/69, 90.

¹²² Graham, *China Station*, 386.

kinds'.¹²³ Many of these goods were taken piratically. By 1858, William Hall, captain of Seymour's flagship, HMS *Calcutta*, reported that Kowloon 'was the resort to & receptacle of every Vagabond who escapes from Hong Kong and property afloat to an incalculable amount lies under it at their mercy'.¹²⁴ The pirates of Kowloon, a territory of the Qing Empire, threatened Hong Kong's shipping but were beyond British control. At the same time, Hong Kong's claims over the whole of Victoria Harbour and defence concerns prevented Qing authorities from effectively exercising power over Tsim Sha Tsui. According to Daniel Caldwell, the colonel of Dapeng had supposedly 'denied his *power* to exercise jurisdiction' on multiple occasions and even 'questioned his own *right*' to do so.¹²⁵ The captain superintendent of the Hong Kong Police affirmed this, reporting that 'as a fact I know that there is no Government Official resident at Teem-cha-tsuy and I never knew an instance of the Kowloon authorities exercising authority there'.¹²⁶ In the absence of Qing authority and the illegality of British intervention, Tsim Sha Tsui became a sort of Libertia, a piratical paradise manifested ashore, for Chinese pirates who could realise their lawless lifestyles on land beyond the authority of any state.¹²⁷

As in the case of Libertia in the Atlantic world, Tsim Sha Tsui was problematic for British rule.¹²⁸ Indeed, while military and naval officials feared Kowloon becoming a possession of a Western rival, colonial officials believed its occupation 'by irregular settlers, acknowledging no order, obeying no rule, and setting the Chinese jurisdiction at defiance' was a situation 'still more to be feared'.¹²⁹ To prevent the emergence of a piratical paradise across Victoria Harbour,

¹²³ William Thomas Mercer, 'Memorandum on the Kowloong Peninsula Question', 6 June 1859, CO 129/74, 99-100.

¹²⁴ Hall to Hardwicke, 2 March 1858, ADM 125/2, 704-705.

¹²⁵ Mercer, 'Memorandum', CO 129/74, 103-104. Emphasis in original.

¹²⁶ Quoted in Mercer, 'Memorandum', CO 129/74, 103.

¹²⁷ Libertia, the name of a utopian republic founded by pirates on Madagascar, became an ideal existence for Atlantic pirates. According to Marcus Rediker, 'hydrarchy came ashore as Libertia'. Marcus Rediker, 'Hydrarchy and Libertia: The Utopian Dimensions of Atlantic Piracy in the Early Eighteenth Century' in *Pirates and Privateers: New Perspectives on the War on Trade in the Eighteenth and Nineteenth Centuries*, ed. David J. Starkey, E.S. van Eyck van Heslinga, and J.A. De Moor (Exeter: University of Exeter Press, 1997), 31.

¹²⁸ Rediker, 'Hydrarchy and Libertia', 36.

¹²⁹ Mercer, 'Memorandum', CO 129/74, 101.

colonial officials at Hong Kong sought the cession of Kowloon to Britain. By the time they resolved on this issue, however, it was too late to include it in the negotiation of the Treaty of Tientsin. Bowring suggested the matter could be 'resumed by local negotiations [sic] with the Viceroy of Canton' akin to Portuguese Macau's annexation of Taipa (Dangzai).¹³⁰ Overshadowed by larger concerns regarding Anglo-Qing relations and negotiations about the details of the Treaty of Tientsin, however, the Kowloon question dropped out of official consideration. The resumption of hostilities after the Dagou repulse and the allies' need for a staging ground from which to commence operations against Beijing revived British interest in Kowloon. As discussed above, the disembarkation of a contingent of the 44th Regiment amounted to a British occupation of the Kowloon Peninsula. With Kowloon effectively under British control, Parkes carried out Bowring's initial suggestion of negotiating its transfer to Britain with the governor-general. Frederick Bruce considered including Kowloon as part of the indemnity the British demanded from the Qing.¹³¹ Military contingency gave British officials another chance to push for the colonisation of Kowloon.

With the Kowloon question revived, Bruce authorised Governor Hercules Robinson to depute Harry Parkes to negotiate the lease of Kowloon with Governor-General Lao Chongguang.¹³² Though Britain's immediate interest in leasing Kowloon was to secure space for a military encampment, Parkes made no mention of military necessity when he met Lao to discuss the matter. Rather, Parkes complained about 'the disordered condition of the Kowloon peninsula, and the inconvenience occasioned thereby to British interests'. This inconvenience arose from 'outlaws and other bad characters', many of whom were pirates, taking advantage of the fact that Kowloon's mountainous terrain obstructed 'the surveillance of the Chinese Government' and the region 'was not interfered with by the British Authorities of Hongkong although situated directly under their eyes, because it did not belong to their jurisdiction'.

¹³⁰ Bowring to Lytton, 20 August 1858, CO 129/69, 90. The Qing did not officially recognise Macau's annexation of Taipa or indeed Portuguese sovereignty over Macau until 1887. Nield, *China's Foreign Places*, 158.

¹³¹ Endacott, *History*, 109-110.

¹³² Robinson to Newcastle, 26 March 1860, CO 129/77, 219.

Parkes also complained that the colonial authorities in Hong Kong had 'repeatedly... remonstrated with the Deputy Magistrate of Kowloon and urged him to clear the peninsula of this dangerous population but all with no effect'. Ultimately, Parkes proposed that:

either the Chinese authorities must send officers and troops to the spot to expel the present bad population, and must moreover constantly maintain there a competent force, or, if it be inconvenient to them to take measures of this nature they should mark out a boundary and cede the grounds within it to the British Government in the same manner as Hongkong, when it would be in the power of the latter to exercise complete jurisdiction over the place, and to take all measures they may deem necessary for securing order among the population.¹³³

With British forces occupying the southern tip of the Kowloon peninsula, Qing authorities could hardly carry out Parkes's recommendation for sending a force to clear Kowloon of pirates. The only choice available to Lao Chongguang was to allow British intervention. Lao agreed 'to temporarily transfer [Kowloon] upon lease' to the British colony of Hong Kong. He also decided to 'station troops there for its protection... with the view of expelling bad characters and ensuring safety to honest people' while also agreeing that British officials could 'station officers and troops for the control and protection of the site'. Governance of the Chinese in Tsim Sha Tsui would become a joint exercise between British and the Qing authorities. Accordingly, Lao would order the 'Magistrate of the said District [of Xin'an] and the township Magistrate of Kow-loon to issue a Proclamation, commanding the honest people of the locality in question to continue their ordinary employments', while 'local civil and Military authorities' would cooperate with British authorities to deal with 'bad characters' in Tsim Sha Tsui. Under these conditions, Lao agreed to lease Kowloon to the Hong Kong government.¹³⁴

Qing authority in Kowloon remained centred on the Kowloon Walled City. The territory leased to Britain notably excluded the fort. When British officials formally announced the lease of Kowloon, their jurisdiction only began on the 'part of the Kowloon peninsula lying South of a line drawn from a point near to but South of the Kowloon Fort to the Northern-most point of Stone-cutter's Island, together with that Island'.¹³⁵ Qing authority in the Kowloon Walled City

¹³³ Parkes to Lao, 20 March 1860, CO 129/77, 231-233.

¹³⁴ Lao to Parkes, 20 March 1860, trans. Mayers, CO 129/77, 236-237.

¹³⁵ 'Government Notification', 24 March 1860, CO 129/77, 228.

remained intact. Commenting on the success of his negotiations, Parkes pointed out that Lao had directed the Kowloon authorities, as well as the district magistrate of Xin'an 'to cooperate with the British Military Authorities in introducing better order' to the leased territory.¹³⁶ Like Victoria Harbour, the Kowloon peninsula, though under British control, had the assistance of Qing authorities in maintaining order. If Libertalia was piratical society come ashore, then British authorities sought to check it by recreating the collaborative imperial hydrarchy between Hong Kong and Kowloon on land in British-occupied Tsim Sha Tsui.¹³⁷

In the same way negotiating the Treaty of Tientsin was an opportunity to codify Anglo-Qing collaboration against piracy in Chinese waters, the Convention of Peking allowed the formalisation of similar arrangements in Kowloon. The cession of Kowloon met with resistance from Qing officials. Qiling, the governor of Guangdong, commenting on Lao's lease, noted that 'Kowloon is within the borders of Xin'an and can be accessed by many land routes' and suspected that from there, the barbarians would 'nibble at the mainland', a plan he considered 'exceedingly detestable'.¹³⁸ Beijing sought to overturn Lao's arrangements. The imperial commissioners who negotiated the Convention of Peking claimed they had no evidence of the lease of Kowloon and would only agree to cede the territory 'if the area is contiguous to Hong Kong, outside of our port [of Kowloon], and is not an important pass to the mainland'.¹³⁹ Though Kowloon did not satisfy these criteria, the Qing negotiators, with their capital under allied occupation, were in no position to reject British demands for the territory's cession. Emperor Xianfeng, despite the reluctance of Qiling and the imperial commissioners, agreed to cede the 'portion of the township of Cowloon, in the province of Kwangtung, of which a lease was granted in perpetuity to Harry Smith Parkes' ostensibly for 'the maintenance of law and order'.¹⁴⁰ Britain initially occupied Kowloon out of military considerations, but naval, colonial, and diplomatic correspondence reveal that a desire to secure Victoria Harbour from a Libertalia

¹³⁶ Parkes to Robinson, 22 March 1860, CO 129/77, 230.

¹³⁷ See Rediker, 'Hydrarchy and Libertalia', 31.

¹³⁸ Memorial by Qiling, XF 10/5/*yusi* (30 June 1860), *YWSM*, XF/52, 34 in *SKQS*, vol. 417.

¹³⁹ Memorial by Prince Gong, Guiliang, and Wenxiang, XF 10/9/*jiachen* (27 October 1860), *YWSM*, XF/67, 5 in *SKQS* vol. 418.

¹⁴⁰ Article VI, 'Convention of Peking', IMC, *Treaties*, 241

developing on the mainland side was a powerful if not the most prominent motivation in arguments for the colonisation of Kowloon. British officials placed the 'burden of piraticality' at Kowloon on the Qing state, using this as an excuse to expand Hong Kong's authority to Tsim Sha Tsui. Britain's colonisation of Hong Kong may have been driven by the imperialism of free trade, but the colony's expansion was an exercise in the imperialism of free seas.¹⁴¹

The Treaty of Tientsin and Convention of Peking had profound implications for Anglo-Qing relations, including collaborative efforts in suppressing piracy. The Treaty of Tientsin represented a compromise on the notion of pirates as *hostes humani generis* under universal jurisdiction in international law. British authorities in China gave up ideas of universal competence over pirates and ceded jurisdiction over all crimes by Qing subjects, including piracy and other acts against British subjects, to Qing judicial authorities. At the same time, the treaty expanded the Royal Navy's range of activity in China and allowed for closer cooperation between Britain and China against piracy. Though Britain engaged in the imperialism of free seas, using the pretence of suppressing piracy and maintaining order over Victoria Harbour to justify the colonisation of Kowloon, the *modus vivendi* of cooperation between colonial and naval officials at Hong Kong and the Kowloon authorities remained intact. The codification of this system in the treaties ending the *Arrow* War revolutionised Anglo-Qing collaborative hydrarchy by establishing a legal basis for it, which allowed for the development of new strategies and polices for suppressing piracy in the late-nineteenth century.

¹⁴¹ See Simon Layton, 'Hydras and Leviathans in the Indian Ocean World', *International Journal of Maritime History* 25, no. 2 (December 2013), 224-225.

Chapter 6

‘Partial Ultimate Success’: Cooperative Efforts Suppressing Piracy, 1860-1868

The codification of a collaborative system for suppressing piracy in treaty law allowed for new and closer forms of cooperation between Britain and China against pirates. This chapter will explore some of these developments, namely joint expeditions against pirates, the establishment of the Guangdong steam squadron, and policies adopted at Hong Kong and Canton against piracy, and discuss their impact on the Anglo-Qing suppression of piracy. Pirates continued to be a problem after the *Arrow* War and particularly with the end of the Taiping Rebellion. More effective forms of dealing with pirates became necessary. British officials in China decided to adopt a ‘variety of connected measures for the repression of Piracy’, which were made possible by the new treaties.¹ Article LIII of the Treaty of Tientsin gave British and Qing officials a means of requesting one another’s assistance in dealing with piracy. The treaty thus provided a basis for direct coordination and cooperation between British and Qing forces against pirates. Though these joint expeditions had mixed results, they represent a closer degree of collaboration than had existed previously and allowed both sides to develop a more efficient system for working together. A *modus operandi* in which Qing officials went onboard Royal Navy ships to help direct and sanction expeditions against Chinese pirates increased the efficacy of the Anglo-Qing collaborative imperial hydrarchy in Guangdong waters.

The British and Qing empires also interacted against piracy in other ways. Lacking the naval capacity to deal with pirates independently, Qing officials took advantage of the conciliatory attitudes of their former enemies, Britain and France, to attempt to purchase steam-powered vessels for use in suppressing piracy. The Canton authorities eventually succeeded in buying a steam squadron for the police of Guangdong’s waters. While vessels of this force built on the system of cooperation with the Royal Navy, they also made independent Qing naval actions

¹ Colonial Office to Law Lords, 7 November 1866, Foreign Office Records (FO) General Correspondence before 1906, China (17)/803, 255, The National Archives (TNA), Kew, UK.

more effective, allowing a firmer assertion of Qing maritime sovereignty. The Guangdong steam squadron gave Qing authorities at Canton the confidence to insist on their maritime rights by international law, to which they were increasingly exposed after the *Arrow* War. Part of this exposure came through collaborative efforts with Britain and other maritime powers against pirates.

As piracy and crime in general plagued Hong Kong, officials there decided to enact legislation for its suppression. Implementing some of this legislation, such as a proposal to disarm all Chinese junks to prevent them from committing piracy, required an international effort. Policies against piracy at Hong Kong implicated civil and naval authorities from the Qing and British empires and beyond. With only a fledgling steam squadron and meeting with local resistance, however, Qing officials failed to enforce the policies suggested at Hong Kong and instead reverted to a modified traditional system of maritime control in Guangdong. Hong Kong's policies were adjusted accordingly. Negotiating this agreement reveals some of the ways international, treaty, municipal, and colonial law in the Canton Delta interacted and influenced each other and how they affected the policies adopted at the various centres of authority in the region. These policies, along with efforts by the Guangdong steam squadron and those of the Royal Navy in direct cooperation with Qing officials, produced a more effective Anglo-Qing collaborative imperial hydrarchy, which ultimately and substantially reduced piracy in South China.

Coordination and Cooperation: Joint Expeditions and Anglo-Qing Imperial Hydrarchy in Guangdong

As discussed in the last chapter, the Royal Navy in Guangdong had acted as if the terms of the Treaty of Tientsin were in force when taking actions against pirates even before the Convention of Peking had been signed. Between 1858 and 1860, British warships visited areas in Chinese waters outside of the treaty ports, and naval officers interacted with local Qing officials in the vicinity. While hostilities with China persisted, British officers could justify some of their expanded activity in China on the basis of other international arrangements. Qing authorities

agreed to open Swatow to American commerce on 1 January 1860, while British and French commanders were still planning their vengeance for the Dagou repulse. Based on the most-favoured nation clause in the Treaty of the Bogue, Frederick Bruce decided that this meant Swatow would be opened to British traders as well and deputed G.D. Caine to act as consul there.² That July, HMS *Sparrowhawk* brought Caine to Swatow and its crew gave him a 21-gun salute upon the hoisting of the British flag at the consulate.³

Shortly after his arrival, Caine reported that a French missionary had been captured and held ransom at a nearby village and requested the presence of gunboat, suggesting that it 'would be of the greatest assistance in keeping these free-booters in check'.⁴ Though short of accusing the villagers of piracy, Caine's description of them as 'free-booters' connoted maritime criminality.⁵ The missionary, Monsieur Bernon, was more explicit and called his captors 'pirates'.⁶ HMS *Acorn* and *Cockchafer* came to the rescue, but by the time they arrived at Swatow, Bernon had been freed after his converts paid a ransom. Caine nonetheless suggested that 'the capture of the Ringleaders would be conducive of much good as the place was sufficiently strong to have held the local authorities at defiance for fifty years and to have the worst effect on trade'. Caine 'persuaded the mandarin appointed by the Governor General of their Provinces to attend to matters connected with Foreigners' to accompany the punitive expedition.⁷ Supported by the authority of a Qing official, Commander Pearse of the *Acorn*

² Bruce to Russell, 6 December 1859 in *British Parliamentary Papers Area Studies Series: China (BPP)* (Shannon: Irish University Press, 1971), vol. 34, 126. According to Article VIII of the Treaty of the Bogue, 'should the Emperor hereafter, from any cause whatever, be pleased to grant additional privileges or immunities to any of the subjects or Citizens of... Foreign Countries, the same privileges and immunities will be extended to and enjoyed by British Subjects'. 'Supplementary Treaty of Hoomun Chai' in Imperial Maritime Customs (IMC), *Treaties, Conventions, Etc. between China and Foreign States*, vol. 1 (Shanghai: Statistical Department of the Inspectorate General of Customs, 1908), 201.

³ Captain Robert McClure to Hope, 3 July 1860, Admiralty Records (ADM) China Station Correspondence (125)/6, 232, TNA.

⁴ Caine to McClure, 10 July 1860, ADM 125/6, 283-284.

⁵ The term freebooter developed from the Dutch term *vrijbuiter*, which referred to free traders who also engaged in maritime plunder in the seventeenth-century Atlantic. N.A.M. Rodger, 'The Law and Language of Private Naval Warfare', *The Mariner's Mirror* 100, No. 1 (February 2014), 10.

⁶ A. Bernon to Mr. Hirschfield, undated, translator unknown, ADM 125/6, 286. In a letter praising British actions, M. de Bourboulon, the French plenipotentiary, thanked Pearse for rescuing Bernon from 'villageois pirates'. Bourboulon to Bruce, 16 August 1860, ADM 125/6, 341.

⁷ Pearse to McClure, 23 July 1860, ADM 125/6, 291-292.

issued a demand that 'twelve villains' implicated in Bernon's kidnapping 'be delivered up to me, for giving over to the Mandarins, that their crimes may be properly punished'.⁸ When the villagers did not respond, the *Cockchafer* proceeded to cannonade the village of 'Kowboe' and landed forces to burn several of its buildings. The display of force had its effect, and the villagers handed over four prisoners alleged to have been the principal perpetrators of the kidnapping of Bernon and other piracies.⁹ The local Qing deputy magistrate admitted his own inability to act against the villagers of Kowboe, which he designated 'the most notorious pirate village within the jurisdiction of Chaochow [Chaozhou]'. He also had Pearse's prisoners forwarded to the nearest magistrate 'to be dealt with with the greatest rigor as a warning to others'.¹⁰ In punishing Kowboe and delivering prisoners to the deputy magistrate, Pearse helped bolster Qing authority in the vicinity of Swatow.¹¹

Contrary to Caine's belief that a display of force would help restore order in Swatow, the port remained disorderly. Captain Robert McClure, the senior naval officer at Hong Kong, decided to send a gunboat there with the hope that it would 'have the effect of maintaining order, restoring confidence, and yield protection'.¹² After another punitive expedition in September 1860, however, McClure concluded that the 'constant succession of these disturbances' provided opportunities for 'wily Mandarins who appear always ready to profess, but never willing to act vigorously, [to] induct the Consul to co-operate with them, ostensibly to avenge our own quarrels, but actually for motives of their own, namely to inspire fear and to extort tribute'.¹³ Despite this distrust, the eagerness of Qing authorities at Swatow to rely on the Royal Navy to bring intransigent villages into line resulted in one of the earliest Anglo-Qing joint expeditions for suppressing piracy after the signing of the Convention of Peking.

⁸ Notice by Commander Pearse, 9 July 1860, ADM 125/6, 299.

⁹ See *ibid.*, 292-296. See also Lieutenant Holder to McClure, 27 July 1860, ADM 125/6, 303-305. I have been unable to find the Chinese name of Kowboe.

¹⁰ 'Chang, Deputy Magistrate of Chao-ning' to Caine, 31 July 1860, trans. Alabaster, ADM 125/6, 350-351.

¹¹ Pearse to McClure, 23 July 1860, ADM 125/6, 296.

¹² McClure to Caine, 2 September 1860, ADM 125/6, 325.

¹³ McClure to Hope, 11 October 1860, ADM 125/6, 382.

The Royal Navy's coordination with Qing forces against the piratical village of Tsing-chow was deeper than any that had come before it and was a testament to the new, closer cooperation made possible by the post-*Arrow* War collaborative imperial hydrarchy.¹⁴ On 6 April 1861, 'Ch'iu', the regional commander at Nan'ao, reported a series of piracies committed from the village of Tsing-chow to Consul Caine. Ch'iu declared that the Tsing-chow villagers' actions 'being a case of robbery and murder on the sea it is right that mutual succour should be given; as it is indeed provided for by the Regulations of Trade'.¹⁵ The 'regulations' were likely a reference to the Treaty of Tientsin, making the Nan'ao commander's appeal an early Qing recourse to the codified collaborative imperial hydrarchy in treaty law. Reporting that the 'Jaou-ping [Raoping] Magistrate' had already gone to Tsing-chow to deal with the matter and that he had further sent 'Chin, a commander in my right-hand camp to go speedily with war junks' to Tsing-chow, Ch'iu showed that he was upholding Qing treaty obligations in attempting to exercise authority over the pirates. He invoked Article LIII in hopes of getting British officials to 'despatch a steamer to assist in intercepting' the pirates.¹⁶ Caine, in forwarding the request for naval assistance, pointed out that:

Piracies have been frequently reported to me as occurring in the Straits of Namoa [Nan'ao], and as by Treaty it is stipulated that measures shall be concerted for its suppression this appears to me a good opportunity for destroying this nest of pirates now officially brought to my notice by the Mandarins.¹⁷

Qing authorities considered Nan'ao, an island on the maritime boarder between Guangdong and Fujian, as strategically important, particularly for Guangdong.¹⁸ The commander there likely understood the importance of putting down piracy, which threatened shipping from

¹⁴ I have been unable to find the Chinese name for Tsing-chow.

¹⁵ 'Ch'iu, Commodore and Commandant of the Namoa Station' to Caine, 6 April 1861, trans. Gregory, ADM 125/7, 649. I have been unable to find Ch'iu's Chinese name

¹⁶ Ibid, 647-648. I have been unable to find Chin's Chinese name.

¹⁷ Caine to Jones, 10 April 1861, ADM 125/7, 638-639.

¹⁸ Ronald C. Po, 'Mapping Maritime Power and Control: A Study of the Late Eighteenth Century *Qisheng Yanhai Tu* (A Coastal Map of the Seven Provinces)', *Late Imperial China* 7, no. 2 (December 2016), 124-125.

provinces that were vital to China's maritime trade and customs revenue.¹⁹ The gravity of the matter and new treaty stipulations mandating cooperation against piracy drove Ch'iu to request British assistance in dealing with the piratical village of Tsing-chow.

Rear-Admiral Lewis Jones, second-in-command of the East Indies and China Station, deputed Lieutenant Henry Holder of HMS *Cockchafer* to assist 'the Mandarin in command of the Naval and Military Forces at Namoa' in an 'attack [on] the piratical Village of Tsing-chow'. Jones ordered Holder 'to give such assistance in the "Cockchafer" as may prevent the Piratical Vessels from escaping from the anchorage off the village', but emphasised that the *Cockchafer* was 'not to assist in bombarding the Village and to avoid firing on the Pirates unless absolutely necessary'. As Nan'ao was not a treaty port and Tsing-chow was 'about 12 miles North of Swatow', Jones wanted to limit the extent of the *Cockchafer's* actions there.²⁰ Even though the treaty granted the Royal Navy access to all Chinese waters to suppress piracy, British naval commanders remained reluctant to sanction the use of force beyond the treaty ports and especially in Qing territory.

On 18 April 1861, Holder took on board a 'district magistrate... by the name (Yeu) together with the mandarine [sic] in charge of two War Junks and other boats'. The officials requested that the *Cockchafer* 'bombard the village and set it on fire in co-operation with their Junks' in coordination with a planned attack by 'Thirteen Hundred braves'.²¹ As his orders prevented him from firing on Tsing-chow, Holder told the Qing officers that he 'could assist them only by cooperating with their boats in capturing Pirates in Boats attempting to escape'. The attack on Tsing-chow would thus be a combination of independent actions by Qing land forces and an Anglo-Qing naval contingent, which would blockade riverine approaches to the village. The fact that the two were in communication at all, however, made the Tsing-chow expedition one of the most coordinated attacks by Britain and China on pirates up to that time. Unfortunately,

¹⁹ Robert J. Antony, *Like Froth Floating on the Sea: The World of Pirates and Seafarers in Late Imperial South China* (Berkeley: University of California at Berkeley Institute of East Asian Studies, 2003), 56-58.

²⁰ Memo to Lieutenant Holder, 13 April 1861, ADM 125/7, 633-634.

²¹ Holder to Jones, 18 April 1861, ADM 125/7, 660. 'Yeu's' name is given as 'Yu' below. I have not been able to find this official's name in Chinese.

the Qing land assault failed, and Holder was 'unable to render any Service in the Gun Boat unless by destroying the Village', which Jones's orders had forbidden. When Holder sent boats from the *Cockchafer* upriver to attempt to cut off the pirates' escape, upwards of a hundred villagers opened fire on them. Holder believed the act warranted a 'severe chastisement'.²²

In the aftermath of the failed attack, the Nan'ao commandant wrote to Caine again to request naval assistance against Tsing-chow, this time asking that the gunboat 'act in conjunction with our vessels... by opening fire with great guns on the said village (of Tsing-chow) [to] bombard and burn down that nest of pirates'.²³ In response to this request and as vengeance for the attack on the *Cockchafer*'s boats, Rear-Admiral Jones sent Captain John Borlase of HMS *Pearl* along with HMS *Haughty* to 'act in concert with the Chinese Land Forces' and 'destroy the said town, securing as many of the Pirates as possible and make them over to the Head Mandarin of the district'.²⁴ This time, the Royal Navy would give its full support in coordinating with Qing forces to punish the piratical village of Tsing-chow. There, Borlase met the District Magistrate 'Yu' of Raoping, who sent 'two Mandarin Junks' to join in the attack on Tsing-chow while 'Imperial Troops' would capture any pirates fleeing the bombardment.²⁵ Qing authorities decided to reverse their previous tactic, this time attacking pirates from the river and sending land forces to cut off their escape.

On 4 May 1861, Borlase issued a notice to the Tsing-chow villagers stating he had 'instructions to destroy the said Town', which would be executed unless 'all the Inhabitants' delivered themselves to 'Chinese Authority'.²⁶ At eight o'clock the following morning, after men, women, and children had reportedly fled the village, British naval forces began bombarding Tsing-chow. Borlase landed a 'burning party' to complete destruction of the village while also pursuing pirates. The razing of Tsing-chow lasted for 12 hours. In the end, Borlase

²² Ibid, 661-663.

²³ Chiu to Caine, 20 April 1861, trans. Cooper, ADM 125/7, 678.

²⁴ Memo by Lewis Jones, 29 April 1861, ADM 125/7, 629-630.

²⁵ Borlase to Jones, 10 May 1861, ADM 125/7, 691-692. Yu's name is given as 'Yu Ngăn-yung' in Jaou-Ping District Magistrate to Caine, 24 April 1861, trans. Gregory, ADM 125/7, 683.

²⁶ Borlase, 'Notice to the Inhabitants of Tsing Chow', 4 May 1861, ADM 125/7, 707.

reported that ‘not less than 115 Chinese were killed and seventy were made Prisoners’. His force suffered five casualties, and the Qing contingent two. In the aftermath, Yu was ‘most profuse in his thanks’ and requested that Borlase ‘extirpate’ another town ‘up a neighbouring Creek’ but beyond his jurisdiction, to which Borlase responded that his own ‘authority for destruction had limits also’ and declined the request.²⁷

The following day, Yu reported to Caine that ‘the number of pirates killed by the bombardment and slain hand to hand was in all upwards of a hundred; and that six-tenths of the houses were burnt down’. The British force reportedly handed over eighteen prisoners. In the wake of Borlase’s refusal to attack other piratical towns, Yu ‘acknowledge[d] the power which has been employed, both in mercy and in terror’ and ‘hoped that the pirate villages will fear, and the coast will be more secure’. He also expressed ‘inexhaustible gratitude’ for the Royal Navy’s assistance.²⁸ The destruction of Tsing-chow proved that British and Qing forces could directly coordinate efforts against piracy and that such cooperation, stipulated in the Treaty of Tientsin, could be an effective means for suppressing it. It also showed how Qing officials could use British naval assistance to enhance their own authority over unruly villages at the fringes of their jurisdiction. The success at Tsing-chow paved the way for similar joint expeditions elsewhere in Guangdong.

Direct Cooperation near Hong Kong

Like Swatow, Hong Kong was plagued by pirates from recalcitrant surrounding villages after the war. Between January 1860 and May 1866, more than 640 prisoners in Hong Kong were tried for piracy.²⁹ The massive number of pirates processed in Hong Kong continued to strain the colonial criminal justice system. In 1861, Vice-Admiral James Hope reported that ‘the Jail at Hong Kong, calculated to hold 300 prisoners only’ was ‘seldom occupied by less than 500’.³⁰

²⁷ Borlase to Jones, 10 May 1861, ADM 125/7, 694-695, 697-698, 709-710.

²⁸ Yu to Caine, 7 May 1861, trans. Gregory, ADM 125/7, 713, 716-717.

²⁹ MacDonnell to Alcock, 16 May 1866, FO 17/803, 34.

³⁰ Hope to Admiralty, 11 June 1861, ADM 125/8, 5.

By 1864, Governor Hercules Robinson complained that the prevalence of piracy ‘in the immediate neighborhood of a British Colony, and even within British waters, reflects discredit upon the British name and rule’.³¹ The following month, Captain Matthew Nolloth, senior naval officer at Hong Kong, decided to make an effort at rectifying such discredit. He pointed out to Robinson that many of the pirates who had attacked Hong Kong were from the villages around ‘Deep Bay [Houhai] which is about 18 miles from Hong Kong’, particularly that of ‘Yune Leong [Yuen Long, Yuanlang]’. As Deep Bay and Yuen Long were beyond Hong Kong’s jurisdiction, Nolloth suggested that Robinson coordinate with the Canton authorities and organise ‘the co-operation of several Gunboats (one of them having on board a mandarin of authority) with a sufficient body of native troops acting simultaneously ashore’.³² Nolloth hoped to apply the model of cooperation developed at Tsing-chow to Yuen Long. This time, however, a Royal Navy officer rather than local Qing officials initiated a call for a joint expedition.

By 1864, British authorities in China, despite successful actions against pirates at Tsing-chow and elsewhere, were trying to rein in the activities of the Royal Navy in China. In October 1862, Royal Navy ships attacked Cantonese privateers in Qing service on the Yangtze River.³³ Prince Gong, head of the Zongli Yamen, a new department in the Beijing bureaucracy tasked with managing relations with the West after the *Arrow* War, complained about the incident to Frederick Bruce, now the British minister at Beijing. They decided that ‘vessels of the British Navy, falling in with junks, suspected of illegal practice, shall destroy them only if requested by a competent Chinese authority to do so’ while, at the same time, Qing officials should have ‘no objection to officers of the British Navy, if they are confident that such or such a junk has been engaged in piracy, detaining the said junk and handing her over for examination to the local authorities’.³⁴ Even before coming to this arrangement with the Zongli Yamen, Bruce sought to restrain British consuls’ recourse to naval force, suggesting to the commander-in-chief in 1862

³¹ Robinson to Newcastle, 11 May 1864, ADM 125/9, 901

³² Nolloth to Robinson, 3 June 1864, Colonial Office Records (CO) Hong Kong, Original Correspondence (129)/99, 295-297, TNA.

³³ See Hope to Bruce, 23 October 1862, ADM 125/9, 169-171.

³⁴ Prince Kung to Bruce, 20 February 1863, translator unknown, ADM 125/9, 211-213.

that 'redress for illegal acts' should not be 'sought for by force, by the Consul, unless the lives and property of Her Majesty's subjects, at the ports, are endangered by violence'.³⁵ Accordingly, Bruce warned the consuls against calling on the Royal Navy for 'coercing the local authorities and people and thus doing the work of the Imperial Government' of China.³⁶ At Hong Kong, Nolloth prohibited any officer under his command from taking action 'in cases of piracy on the coast where no British or European property has been plundered'. Such cases should be reported to a British consul to forward to the Qing authorities as 'it will generally be their duty', not the Royal Navy's, 'to take active measures under such circumstances'.³⁷ Hope's successor as commander-in-chief of the East Indies and China Station, Rear-Admiral Augustus Kuper, issued a standing order that 'Chinese vessels are on no account to be destroyed by Her Majesty's ships, unless the Officers in command are requested, by a competent Chinese Authority, to aid in doing so; nor unless on the sea coast of China, a pirate is caught in the act of Piracy'.³⁸ Given these restrictions on British naval actions, Nolloth had to seek Qing approval and assistance for his planned attack on Yuen Long.

In forwarding Nolloth's request to Canton, the colonial secretary, William Mercer, asked the governor-general, Mao Hongbin, to 'take such prompt and effectual measures to remedy the evil complained of as will render a representation to Peking unnecessary'. Hong Kong authorities would send gunboats to support such measures 'if a proper Chinese Officer be deputed to accompany the expedition', but Mercer emphasised that a naval demonstration 'would be of little use, unless there were a body of Chinese Soldiers ready to co-operate on land'.³⁹ The British consul at Canton, D.B. Robertson, met the governor-general, to discuss the matter. Mao agreed to send 'Brigadier General Ling-shan to accompany the Gun Boats' in a Qing war junk.⁴⁰ Mao insisted that 'should there be any Pirates, they will be at once be [sic]

³⁵ Bruce to Hope, 6 September 1862, ADM 125/9, 137-138.

³⁶ Bruce, 'Circular to H.M. Consuls', 2 September 1862, ADM 125/9, 149.

³⁷ Nolloth to Kuper, 11 April 1863, ADM 125/9, 309.

³⁸ Augustus Kuper, 'Standing Order No. 10', 18 April 1863, ADM 125/9, 220.

³⁹ Mercer to Robertson, 8 June 1864, CO 129/99, 292.

⁴⁰ Robertson to Mercer, 18 June 1864, CO 129/99, 299. I have been unable to find Ling-shan's name in Chinese.

taken and forwarded for punishment' at Canton. He further promised that 'a body of Soldiers from the neighborhood' would be sent for 'guarding of the road to prevent escape'.⁴¹ Qing and British forces would thus attempt to replicate the successful strategy from the Tsing-chow expedition of naval assault and using land forces to cut off pirates' escape at Yuen Long. With these plans agreed upon, Nolloth sent Lieutenant Richard Adams to take HMS *Woodcock* and *Grasshopper* and 'bring justice to some of the notorious piratical villagers in or near "Deep Bay" who habitually plunder the native boats trading to Hong Kong'. The gunboats would be 'accompanied by a native officer' while Qing commanders would also 'employ troops to prevent escape inland'.⁴²

On 26 June 1864, Adams set out for Deep Bay accompanied by 'the Consular Interpreter, Mr. Carroll, a police interpreter, and the Chinese informer whose boat had been fired upon and seized', while Ling-shan joined the expedition in his own junk. Adams believed that a successful operation 'depended on an immediate and sudden landing', but Ling-shan instead insisted on speaking with the village headmen to ask for the rendition of pirates. While this was going on, Lieutenant Charles Walker landed a portion of the crew of the *Grasshopper*, captured ten pirates, and searched 'well-known piratical villages', the inhabitants of which fled on the landing party's approach. Ling-shan, however, continued to deliberate and attempted to delay any landing until Adams 'pressed, or rather insisted on, the matter' and a joint force was landed near a piratical village. Ling-shan 'observed that he did not think the force sufficient to burn it'.⁴³ He later wrote to Adams that the goal of the expedition was to 'conjointly... examine into the matter of, and look after the pirates and vagabonds of Ün-long [Yuen Long] and several other villages', but that as he could not distinguish 'between the good and the bad', there was 'no way of beginning our work'.⁴⁴ Adams accused Ling-shan of an 'utter absence of zeal' but was limited in his own actions as 'the gunboats were not to land their crews on Chinese territory and capture offenders

⁴¹ Viceroy to Robertson, 16 June 1864, trans. Carroll, ADM 125/9, 744.

⁴² Nolloth to Adams, 25 June 1864, ADM 125/9, 747-748.

⁴³ Adams to Nolloth, 28 June 1864, ADM 125/9, 752-754, 755-756.

⁴⁴ 'Chinese Brigadier to Lieut. Adams', undated, trans. Carroll, CO 129/99, 314.

or suspected persons except in co-operation with the General's party'. The Qing land forces, which were to cut off the pirates' escape, never arrived.⁴⁵

Reporting the results of the Yuen Long expedition, Nolloth complained to Robinson that 'no service whatever has been executed'.⁴⁶ Colonial authorities at Hong Kong lamented the 'incapacity of the Brigadier General' and as a result decided to make 'a complaint to the Supreme Government in Peking'.⁴⁷ The establishment of the Zongli Yamen, part of the revolution in Qing foreign relations that emerged after the *Arrow* War, provided a means for the British to address the problems of piracy directly to high Qing officials at Beijing rather than with provincial authorities at Canton thousands of miles from the capital. British complaints about piracy would thus have more impact on Qing policy, as discussed below.⁴⁸ In the meantime, Robinson decided to call on the governor-general at Canton to discuss the problem of piracy committed from Qing territory in Hong Kong's vicinity. According to Robinson, the governor-general declared that villages like Yuen Long 'could be more easily dealt with from Hong Kong than from Canton' and 'begged' him to deal with the matter himself. Robinson responded that 'I should have done so before if Deep Bay had not been within Chinese jurisdiction'. Despite the colonisation of Kowloon, piracy continued to be a problem for Hong Kong due to the absence of Qing authority 'in Deep Bay, and upon the sea coast in that neighbourhood'.⁴⁹ The limits of Hong Kong's jurisdiction, however, meant that any punitive actions at Yuen Long or other villages around Deep Bay required cooperation with Qing authorities. As at Swatow, Qing officials in the areas around Hong Kong came to realise that such cooperation could be a means of using the firepower and prowess of the Royal Navy to supplement deficiencies in their own authority.

⁴⁵ Adams to Nolloth, 28 June 1864, ADM 125/9, 757.

⁴⁶ Nolloth to Robinson, 29 June 1864, ADM 125/9, 765.

⁴⁷ Mercer to Nolloth, 7 July 1864, CO 129/99, 317-319.

⁴⁸ Jonathan Chappell, 'Maritime Raiding, International Law, and the Suppression of Piracy on the South China Coast, 1842-1869', *International History Review* 40, no. 3 (2018), 484.

⁴⁹ Robinson to Cardwell, 28 July 1864, CO 129/99, 286-288.

In April 1866, officials in Xiangshan requested that Vice-Admiral George King, the first commander-in-chief of an independent China Station, send gunboats to attack 'Pak-shui [Beishui], Nam-shui [Nanshui], and other places within the jurisdiction of Heung-shán [Xiangshan].'⁵⁰ King asked that Robertson inquire into the governor-general's opinion and stated that 'if the Viceroy requires the assistance of the Gun Boats, he should make a distinct request to that effect'.⁵¹ In response, Ruilin, the governor-general of Guangdong and Guangxi, cited Article LIII of the Treaty of Tientsin to request the assistance of a British gunboat to accompany a Qing customs steamer and 'together annihilate' the pirates. He would send Guangzhou Prefect (*zhifu*) Mei and Major (*youji*) Shang in a customs steamer and a war junk or two to rendezvous with a British force at Lintin, while a Qing force in 'pa boats, which are reliant on wind and tide', would go ahead of time to Yaimen and Modaomen to block the pirates' escape.⁵² The governor-general's request is perhaps the earliest Qing request for British assistance against pirates from such a high ranking official.

Despite its failure at Yuen Long, Ruilin hoped to deploy the Tsing-chow strategy of naval assault and land blockade against the pirates of Beishui. At Canton, Robertson reported that Qing 'troops to the number of 1200 have been detailed for the undertaking'. To facilitate coordination between British and Qing forces, Robertson 'instructed Mr. W.F. Mayers, Acting Vice Consul and Interpreter at this Port [Canton]' to accompany the Qing contingent.⁵³ Perhaps with the failings at Yuen Long in mind, Robertson decided to alter the strategy of the joint expedition and arranged that 'when captured, these Strongholds [at Beishui] shall be garrisoned by Chinese Troops to prevent their return to piratical occupation'.⁵⁴ In support, Captain Nolloth

⁵⁰ Lui and Chák to King, 12 April 1866, translator unknown, FO 17/803, 100. The China Station was divided from the East Indies Station in 1864, with the limits of the China Station being 'On the North from the Meridian of 95° East Longitude in the Latitude of 8° North, along that parallel to the West Coast of the Malay Peninsula; thence Southward to Singapore and Northward by the Eastern Shores of Asia as far as Cape East in Behrings Straits. West from the Latitude of 8° North by the Meridian of 95° East to Latitude 10° South. South by the Parallel of 10° Latitude'. Admiralty to Kuper, 25 February 1864 ADM 125/9, 631-632.

⁵¹ King to Robertson, 18 April 1866, FO 17/803, 98.

⁵² Ruilin to Robertson, Tongzhi (TZ) reign, 5th year/4th month/13th day (26 May 1866), FO Consulates and Legation, China: General Correspondence, Series I (228)/926, 275-276, TNA.

⁵³ Robertson to Mercer, 26 May 1866, FO 17/803, 105-106.

⁵⁴ Robertson to Hammond, 28 May 1866, FO 17/802, 264.

sent HMS *Janus* to Lintin to meet the Qing customs steamer, with HMS *Opossum* and *Banterer* to follow. Lieutenant Henry Craven St. John would command the expedition.⁵⁵

The gunboats met the Customs steamer *Hai Tsing* at Lintin on 30 May 1866.⁵⁶ St. John drew up a plan with the Qing authorities, deciding that as Beishui was triangular in shape, the main Qing force would land at the north while the gunboats and the *Hai Tsing* would guard each of the island's three sides. The Qing land force arrived early, however, and by the time the joint steam flotilla reached Beishui, the pirates had abandoned the village and fled to the island of Nanshui.⁵⁷ St. John then attempted to coordinate an attack on Nanshui, but the Qing forces botched their amphibious assault, and by the time the troops converged on the village, the inhabitants had 'retreated to the woods and hill sides'. Lieutenant Karl Heinrick Augustus Mainwaring meanwhile landed with a force of men from HMS *Opossum* and one hundred Qing troops to attack 'Man Wan (another village on the south side of the Island)'. Mainwaring's forces succeeded in capturing a '12 gun battery concealed in the woods', but found the town 'quite deserted'.⁵⁸ A member of the Xiangshan gentry anticipated the pirates' desertion as 'the intended despatch of gunboats had been talked of in the Chinese town at Hongkong for four or five days past, and would immediately be known on the coast'. The expedition indeed found out that 'no junks had been seen near the straits for about six days'.⁵⁹ Prefect Mei had Beishui and Nanshui 'completely destroyed' and left his forces to garrison the area.⁶⁰ He also left '12 heavily armed junks with smaller gun vessels in the straits'. The expedition took twenty prisoners.⁶¹

⁵⁵ Nolloth to Robertson, 29 May 1866, ADM 125/10, 780.

⁵⁶ Mayers to Robertson, 1 June 1866, FO 17/803, 113. I have been unable to find the Chinese name of the *Hai Tsing*. The name is also recorded as *Hai-Ching*.

⁵⁷ St. John to Nolloth, 1 June 1866, ADM 125/10, 791-795. According to Mayers, the Qing officials included the 'Prefect of Kwang chow-fu, Lt. Colonel Shang, Lt. Colonel Shên (commanding the Hunan Braves), Major Hū'. Mayers to Robertson, 1 June 1866, FO 17/803, 113. I have been unable to find the Chinese names of these officials.

⁵⁸ St. John to Nolloth, 1 June 1866, ADM 125/10, 797-802. I have been unable to find the Chinese name of Man Wan.

⁵⁹ Mayers to Robertson, 1 June 1866, FO 17/803, 115-116.

⁶⁰ St. John to Nolloth, 1 June 1866, ADM 125/10, 802.

⁶¹ Mayers to Robertson, 1 June 1866, FO 17/803, 118.

Vice-Admiral King commended St. John and Mainwaring's actions in the Beishui expedition.⁶² Robinson's successor as governor of Hong Kong, Richard Graves MacDonnell, complained that the effort was 'a complete failure so far as regards the crippling of the pirates by depriving them of weapons and their vessels', but he also considered it 'a complete success in exhibiting the willingness of the Chinese Government to co-operate in their own way with others in putting down Piracy'.⁶³ Doubting the naval and military capacity of the Qing but requiring their cooperation in suppressing piracy, British officials in China needed a new *modus operandi* for working with Qing counterparts in dealing with pirates. Robertson concluded from the Beishui expedition that 'combined operations must result in failure, so far as the main point, the capture and destruction of the pirate vessels, is concerned,' and that any collaborative anti-piracy expedition 'should be organized on a different basis'.⁶⁴ A new basis of cooperation emerged during an expedition to Hainan, which would become the model for joint actions against pirates in the waters of Guangdong from the late 1860s onwards.

A New System of Cooperation and Its Limits

During the summer of 1866, the senior naval officer at Hong Kong, Commodore Oliver Jones decided to send HMS *Osprey* and *Opossum* to deal with pirates in the vicinity of the island of Hainan. Qing cooperation took the form of 'Liang [Guoding], a Military Mandarin' from Kowloon, who would accompany the expedition and 'make it lawful for [Commander William Menzies] to attack the Pirates in Chinese Waters, or if necessary, though that should be done with caution, to land for that purpose'.⁶⁵ On 18 July, the gunboats encountered 'the mast heads of a great many Junks showing over the South Point of the entrance to Sama Inlet'. When 'His

⁶² King to Admiralty, 18 June 1866, ADM 125/10, 773-774.

⁶³ MacDonnell to Cardwell, 12 June 1866, FO 17/803, 68-69.

⁶⁴ Robertson to Alcock, 25 July 1866, FO 17/803, 186.

⁶⁵ Jones to Menzies, 11 July 1866, ADM 125/11, 9-10. The military mandarin was 'Leang Kwo ting [Liang Guoding], Magistrate at Kowloon'. Robertson to Alcock, 25 July 1866, FO 17/803, 185. This seems to have been the same official who arrested the crew of the *Arrow* in 1856. Huang Kaiguang during the expedition against Shap-ng-tsai in 1849 served a similar function to Liang, but that action was improvised and lacked any basis in the treaties.

Excellency Lyang [Liang], mandarin of the Blue Button, pronounced them a Pirate fleet', the gunboats opened fire. While the warships attacked the pirate junks, a party of marines and small arms men landed with the orders: 'Junks to be taken and burnt, every Pirate seen to be shot down, and no prisoners to be taken'.⁶⁶ Menzies estimated that his force engaged five to six hundred pirates, killing one to two hundred. A total of '21 junks carrying 268 guns and 582 men' were destroyed.⁶⁷ Unfortunately, during the expedition, Liang Guoding suffered a 'Gun Shot wound of abdomen', which perforated his bowels and proved mortal. He 'died on board HMS "Osprey" at Sea, 21st [July] at 9.15 P.M.'. ⁶⁸ Liang reportedly suffered his wounds 'while gallantly making prisoners of some Pirates who were escaping'. ⁶⁹ MacDonnell expressed 'concern and sorrow at this untoward event' and lamented that it would be 'difficult if not impossible to adequately supply his place' as a cooperative official at Kowloon.

Menzies's expedition, unlike those to Yuen Long or Beishui, met with unanimous British approval. MacDonnell considered it proof that it was 'quite possible with a small fleet of thoroughly effective and swift gunboats to render Piracy so unprofitable a pursuit, so as to free the seas from the rascals who now infest them'.⁷⁰ The success of the Hainan expedition, in which 'an officer on the part of the Chinese Government' accompanied a Royal Navy expedition to give 'legality to any operations that might be made in Chinese waters', suggested that this mode of cooperation might replace the joint expeditions coordinated between British and Qing forces.⁷¹ Within two years, the precedent of Qing officials going on board Royal Navy ships to give legal sanction to British actions was well-established. In April 1868, Vice-Admiral Henry Keppel, the commander-in-chief of the China Station, reported that 'native Officials... are always received on board before H.M. Ships depart on any expedition having the suppression

⁶⁶ Menzies to Jones, 22 July 1866, ADM 125/11, 11-12, 18-19. I have been able to find the Chinese name of Sama.

⁶⁷ Menzies, 'Statement of the Junks burnt and blown up by their own ammunition on the 18th July 1866, at Sama Bay', ADM 125/11, 31.

⁶⁸ J.C. Caldwell, 'Return of the wounded on board this Ship between the 18th and 23 July 1866', ADM 125/11, 29.

⁶⁹ Jones to King, 23 July 1866, ADM 125/11, 8.

⁷⁰ MacDonnell to Cardwell, 27 July 1866, FO 17/803, 219.

⁷¹ Robertson to Alcock, FO 17/803, 184.

of Piracy as its object'.⁷² Boarding Royal Navy vessels in pursuit of pirates became a duty of Qing officials. On 26 May 1868, British officials went to Kowloon and requested that the colonel of Dapeng, He Feixiong, send an officer to go aboard HMS *Algerine* on an expedition against pirates. Colonel He deputed Lieutenant (*qianzong*) Chen Deng to accompany the expedition. When Chen failed to go to Hong Kong to join the crew of the *Algerine*, Governor-General Ruilin ordered an investigation into whether he had 'shirked his duty'.⁷³ Chen seems to have learned his lesson. When the British requested that a Kowloon mandarin accompany another expedition against pirates the following July, Chen Deng set off for Hong Kong 'at that instant'.⁷⁴ By that time, Ruilin admitted the existence of a well-established system in which Royal Navy ships going 'out to sea on anti-piratical cruises' would 'request that a military official from Kowloon accompany the expedition to help with distinguishing between the good and the bad and for consultation in making arrests'.⁷⁵ The compromise between the rights given to the Royal Navy in Article LII of the Treaty of Tientsin and British attempts to restrain naval action in China, as well as Qing sovereign rights and treaty obligations, had produced a model of cooperation in which British gunboats, with Qing officials on board, enforced Qing and treaty law on the China coast.

This new system of collaboration had limits, however. Robertson's accusation that 'the Chinese authorities are so slow and open in their preparations' for cooperating with British forces had some validity, as the example of Chen Deng revealed.⁷⁶ One of the most tragic and consequential results of delays on the part of Qing officials in cooperating with the Royal Navy against alleged pirates was the death of sixty-nine Chinese at the village of Oudingxiang (Ouding-poi in English sources). In January 1869, while boats of HMS *Cockchafer* went 'for exercise' on the creek by Oudingxiang, the crews 'were assailed with Stones thrown from behind the bank of the River' by villagers. Lieutenant Howard Kerr landed a force to capture a village

⁷² Keppel to Alcock, 22 1868, ADM 125/13, 75.

⁷³ Ruilin to Robertson, TZ 4/intercalary 4/17 (7 June 1868), FO 228/926, 106.

⁷⁴ Ruilin to Robertson, TZ, 7/5/28 (17 July 1868), FO 228/926, 108.

⁷⁵ Ruilin to Robertson, TZ 7/6/11 (30 July 1868), FO 228/926, 93.

⁷⁶ Robertson to Alcock, 25 July 1866, FO 17/803, 186.

leader to take to Qing authorities at Swatow to give an explanation, but the villagers, who gathered in an armed mass, prevented his force from doing so and attacked the boats as they withdrew to Swatow. The villagers wounded ten of the *Cockchafer*'s crew.⁷⁷ In response, the British consul at Swatow, Chaloner Alabaster, 'urge[d] the necessity of a force being sent hither without delay to read the semi-piratical villagers the sharp and decisive lesson' that Rutherford Alcock, Bruce's successor as British minister at Beijing, had suggested 'in anticipation of some such outrage'.⁷⁸ Two years earlier, Alcock had declared that all the villages on the Han River between Swatow and Chaozhou were 'piratical and insurgent' and authorised gunboats making a survey of the river 'to repel any attack or put down any opposition made to their progress'.⁷⁹ Alabaster believed that this authorisation gave British forces a right to seek vengeance at Oudingxiang. Vice-Admiral Keppel met Ruilin to discuss the punishment of villagers of Oudingxiang and its surrounding region who 'had long resisted the Imperial Power, refusing to pay taxes, while they themselves levied blackmail on traders passing from Chow-Chow-Fou [Chaozhou]'.⁸⁰ Article LIII allowed Keppel and other naval officers to interact with Qing officials on equal grounds, giving the Royal Navy diplomatic functions beyond those of gunboat diplomacy. After his meeting with Keppel, Ruilin agreed to send one of his new gunboats and an official to Swatow to inquire into the affair while another gunboat would go to Hong Kong to accompany any British force sent to exact retribution. Keppel and Ruilin also discussed the general suppression of piracy at their meeting.⁸¹

Keppel gave Commodore Jones command of a flotilla consisting of HMS *Rinaldo*, *Perseus*, *Leven*, and *Bouncer* at Hong Kong, and of *Cockchafer* and *Banterer* at Swatow, to punish 'the Piratical Villagers residing on the banks of the River Han' who were 'not merely at war with themselves but with society generally'. Keppel invoked the notion of pirates as *hostes humani*

⁷⁷ Kerr to Jones, 21 January 1869, ADM 125/14, 163-166.

⁷⁸ Alabaster to Jones, 22 January 1869, ADM 125/14, 170-171.

⁷⁹ Alcock to Keppel, 25 June 1867, quoted in Keppel to Admiralty 23 January 1869, ADM 125/14, 160.

⁸⁰ Henry Keppel, *A Sailor's Life Under Four Sovereigns*, vol. 3 (London: Macmillan & Co., 1899), 234.

⁸¹ See Memo by Robertson, 25 January 1869, ADM 125/14, 180-186.

generis to justify an act of war against the villagers of Oudingxiang. In conducting this war, Jones was to act 'in accord with the Commissioner despatched by His Excellency the Viceroy', while also keeping 'communication open with Swatow, and intimat[ing] through the Chinese Officials that we are only at war with such of the Piratical Villages as are at war with us'.⁸² Jones, however, ignored orders to cooperate with Qing authorities, and began attacking Oudingxiang and other villages without consulting local officials on 29 January 1869. By the time the Qing gunboat *Anlan* arrived at Oudingxiang, most of the destruction was done.⁸³

In the aftermath, Alabaster believed that 'the expedition has had the happiest effect on the country round'.⁸⁴ Other officials were less optimistic. Keppel expressed dismay that Jones had disobeyed orders in acting alone and expected that Ruilin in Canton and Alcock in Beijing would also express disappointment.⁸⁵ To preempt hard feelings on Ruilin's part, Keppel hoped that Robertson, when forwarding accounts of Jones's actions would 'explain away any ill-feeling that might possibly result from Commodore Jones having commenced operations before the arrival of the Vice Roy's Commissioner'.⁸⁶ Ruilin nonetheless 'expressed much dissatisfaction' at Jones's hastiness.⁸⁷ The governor-general considered British naval actions 'a breach of faith beyond reason'. He believed that the Oudingxiang affair, from start to finish, violated of the Treaty of Tientsin, which caused him to 'sigh deeply'.⁸⁸ At Beijing, Prince Gong deemed the killing of sixty-nine men and women, the capture of 'exceedingly many', and the burning of four hundred and forty-five houses 'reckless behaviour' that 'should be punished'. He concluded that 'much of the foreign trouble at the various ports has been caused by the Royal Navy' and decided that the Qing should 'hasten to restrain the British' lest they set an example for other

⁸² Keppel to Jones, 26 January 1869, ADM 125/14, 196 and 199-201. See also Keppel, *Sailor's Life*, 234.

⁸³ See Jones to Keppel, 30 January 1869, ADM 125/14, 206-228.

⁸⁴ Alabaster to Jones, 31 January 1869, ADM 125/14, 222.

⁸⁵ Keppel, *Sailor's Life*, vol. 3, 235-236.

⁸⁶ Keppel to Robertson, 2 February 1869, ADM 125/14, 233.

⁸⁷ Robertson to Keppel, 13 February 1869, ADM 125/14, 238.

⁸⁸ Ruilin to Robertson, TZ 7/12/27 (8 February 1869), FO 228/926, 53-54. Ruilin cites breaches of Articles IX, XVI, and XVIII of the Treaty of Tientsin.

countries, which might ‘send warships whenever there is disturbance’.⁸⁹ The Foreign Office agreed and ordered Alcock to ‘inform HM Consuls generally that it is their duty to discountenance similar acts of imprudence on the part of British subjects’.⁹⁰ Accordingly, Alcock issued a warning to British consuls to limit their recourse to naval force, pointing out their duty was ‘to moderate, not to sanction violence’.⁹¹ The Admiralty also condemned the expedition.⁹² Keppel believed that as punishment, the sea lords did not recommend him for a GCB on Queen Victoria’s birthday.⁹³

While the Treaty of Tientsin stipulated that Britain and China should work together to suppress piracy and laid the foundation for direct cooperation, such joint actions had limits. The successful punishment of Tsing-chow revealed the potential that joint amphibious attacks between Qing forces and the Royal Navy could have for suppressing piracy and establishing order. The results of the joint expeditions to Yuen Long and Beishui, however, met with ambivalence. The success of HMS *Osprey* and *Opossum* at Hainan established the more efficient model of Qing officials going onboard Royal Navy ships in pursuit of pirates. This had become the *modus operandi* for the Anglo-Qing collaborative imperial hierarchy against pirates by the late 1860s. The disastrous outcome of the Oudingxiang affair, however, checked such cooperation. In its aftermath, the Royal Navy and British consuls were reprimanded and ordered to limit their intervention in China, while the death and destruction wrought by Commodore Jones’s flotilla caused worries and mistrust among Qing officials. Direct cooperation between Qing forces and the Royal Navy had ambiguous success in suppressing piracy. Other measures would also be needed to clear the China coast of pirates.

⁸⁹ Memorial by Prince Gong, TZ 8/4/*xinchou* (30 May 1869), *Chouban yiwu shimo* [Complete Records of Managing Barbarian Affairs, *YWSM*], TZ/*juan* 65, 26 ed. Wenqing, Jiazhen, Baoyun, et al. in *Xuxiu siku quanshu* [Complete Books of the Four Storehouses, *SKQS*], vol. 418 (Shanghai: Shanghai guji chubanshe, 1995).

⁹⁰ Clarendon to Alcock, 22 April 1869, ADM 125/14, 806.

⁹¹ Alcock to H.M. Consuls, 2 June 1869, ADM 125/15, 85.

⁹² Admiralty to Keppel, 6 August 1869, ADM 125/14, 1095.

⁹³ Keppel, *Sailor’s Life*, vol. 3, 267.

Establishing the Guangdong Steam Squadron

In the aftermath of the *Arrow* War, with peace re-established between Britain and China, the British government adopted a more amicable policy towards the Qing and supported them against the Taiping rebels. The Royal Navy went from a force for gunboat diplomacy in China to one providing important maritime assistance against rebellion. It was the enthusiasm of the Royal Navy in putting down the Taipings and other insurgents that led to the aforementioned attack on Cantonese privateers in the Yangtze river.⁹⁴ In reprimanding the Royal Navy's actions, Bruce conceded that there was an 'absence of any properly organized naval force' in China and proposed 'substituting vessels commanded by responsible officers of the State for these hired corsairs, who are in fact pirates armed with Government authority'.⁹⁵ Qing officials, however, struggled to provide such vessels and instead turned to France and Britain, former enemies who had demonstrated the efficacy of steam-powered warships in the Haihe, for support. The desperation brought about by the Taiping Rebellion and Britain's newly conciliatory and cooperative attitude created an opportunity for Qing China's first attempt at acquiring a modern navy through the purchase of the Lay-Osborn flotilla of seven steam warships from Britain.⁹⁶

On 7 July 1861, Emperor Xianfeng approved of a plan to purchase foreign warships for use against the Taipings. Though the Zongli Yamen initiated discussions for the purchase, it ultimately deputed Lao Chongguang, then governor-general of Guangdong and Guangxi, to negotiate the details with Robert Hart, deputy commissioner of the Imperial Maritime Customs at Canton.⁹⁷ Though treaty stipulations and the establishment of the Zongli Yamen allowed

⁹⁴ Stephen Platt, 'British Intervention in the Taiping Rebellion', in *Britain and China, 1840-1979: Empire, Finance and War*, ed. Robert Bickers and Jonathan Howlett (London: Routledge, 2016), 49-50. Anthony Preston and John Major, *Send a Gunboat: The Victorian Navy and Supremacy at Sea, 1854-1904*, revised edition (London: Conway, 2007), 53-54.

⁹⁵ Bruce to Kuper, 22 November 1862, ADM 125/9, 177-179.

⁹⁶ Bruce Elleman, 'The Neglect and Nadir of Chinese Maritime Policy under the Qing', in *China Goes to Sea: Maritime Transformation in Comparative Historical Perspective*, ed. Andrew S. Erickson, Lyle J. Goldstein, and Carnes Lord (Annapolis, MD: Naval Institute Press, 2009), 303. Richard N.J. Wright, *The Chinese Steam Navy, 1862-1945* (London: Chatham Publishing, 2000), 7.

⁹⁷ Zeng Zhiwen, 'Xian-Tong zhi ji Qing zhengfu de bingjian waigou: yi Zongli Yamen wei shijiao de kaocha [The Qing Government's Purchase of Foreign Warships during the Xianfeng-Tongzhi Transition: The Perspective from the Zongli Yamen]', *Guangdong shehui kexue* 2, (2017), 140-141.

Western diplomats to conduct diplomacy at Beijing, Qing officials still relied on the Canton authorities to negotiate with foreigners over matters of national importance such as the purchase of foreign warships. To facilitate the purchase and transfer of such ships, the British government exempted Horatio Nelson Lay, inspector-general of the Imperial Maritime Customs, and Captain Sherard Osborn, R.N., from the restrictions of the Foreign Enlistment Act, which prohibited British subjects from participating in conflicts in which Britain was neutral. The order allowed Lay and Osborn to 'enter the Naval and Military Service of the Emperor of China' to command the warships purchased by the Qing.⁹⁸ When the ships arrived in China in September 1863, however, Osborn refused to serve under provincial authorities while Qing officials were reluctant to allow a naval force under British command to operate in Chinese waters without their supervision. The impasse led to the failure of the exchange, and the fleet was disbanded.⁹⁹ China's first attempt at producing a modern navy had failed.

Though Qing authorities had intended to use the Lay-Osborn flotilla against the Taipings, Frederick Bruce complained that the failure of the sale deprived China of 'a force, which combined with an improved coast administration w[oul]d have begun a better order of things'.¹⁰⁰ He believed a force of steamships would improve the ability of Qing officials to police their own waters. This remained important even after the end of the Taiping Rebellion. The Admiralty believed that the collapse of the rebellion 'furnished an ample supply of the most desperate characters' to man pirate crews.¹⁰¹ In its aftermath, Foreign Secretary Lord Clarendon considered piracy 'no less injurious to the Chinese cities on the sea-board, than were the outrages of the Taepings to the Chinese cities in the interior'.¹⁰² Though piracy was nowhere near as destructive as one of the worst civil wars in history, Qing authorities nonetheless agreed that the problem needed addressing. Prince Gong accordingly issued orders 'to the high

⁹⁸ Order in Council, 30 August 1862, ADM 125/9, 36.

⁹⁹ Platt, 'British Intervention', 53. Preston and Major, *Send a Gunboat*, 53. Wright, *China's Steam Navy*, 18. Zeng, 'Xian-Tong', 143-145. John Rawlinson, *China's Struggle for Naval Development, 1839-1895* (Cambridge, MA: Harvard University Press, 1967), 34-35.

¹⁰⁰ Bruce to Hammond, undated, FO 17/802, 40-41.

¹⁰¹ Admiralty to Foreign Office, 12 January 1866, FO 17/802, 73.

¹⁰² Clarendon to Alcock, 9 January 1866, ADM 125/10, 731-732.

authorities of the maritime provinces, and to the Two Ministers superintendent of Trade, to make arrangements' for the purchase of steamers and, in the meantime, local authorities were instructed 'to charter without distinction of nationality any steamer that may appear suited to perform the service required' for suppressing piracy.¹⁰³ Prince Gong resurrected Qing plans to acquire a steam fleet through purchase and hire.

The following December, citing an order from the Zongli Yamen that Qing officials were to 'charter or purchase' steamers from foreign countries to 'capture pirates and bandits', Ruilin met Guangdong Governor Jiang Yili, and the two decided to order Colonel Huang Tingbiao to charter the '*Zhanzhibei* [*Sir Jamsetjee Jeejeebhoy*]', which was then sent to Caochong in Xinning to 'blockade and capture pirates' after 'the contract was agreed'.¹⁰⁴ Consul Robertson approved of the charter of the British steamer as well as of the Canton authorities' purchase of a 'light draught iron steamer suitable for the conveyance of troops and the patrol of the rivers' around the same time. Robertson was 'glad that the Chinese authorities determined to act for themselves' in taking such measures to deal with piracy.¹⁰⁵ His approval was a drastic change of heart for someone who only months earlier had complained that the Qing authorities at Canton 'had learned nothing from their intercourse with Foreigners, and were as incompetent at this moment as they were five and twenty years ago when the war broke out, and would be so five and twenty years hence unless they were assisted'.¹⁰⁶ By chartering the *Jeejeebhoy* and purchasing the *Feilong*, the Canton authorities showed that they were willing to accept such assistance.

Rutherford Alcock also praised the actions of Ruilin and Jiang towards obtaining a steam fleet, seeing 'encouraging signs of an awakening sense in the Provincial Authorities of the

¹⁰³ Prince Gong to Alcock, 12 April 1866, trans. Brown, ADM 125/10, 739.

¹⁰⁴ Ruilin to Robertson, TZ 5/11/21 (27 December 1866), FO 228/926, 223.

¹⁰⁵ Robertson to Alcock, 2 January 1867, FO 17/804, 58-59. The steamer was the *Feilong*. The Imperial Maritime Customs at Canton seems to have anticipated the Qing acquisition of steamships, purchasing the American steamer *Cumfa* sometime in the early 1860s and replacing it with the *Hai-ching*, a captured smuggler, in 1865. Wright, *China's Steam Navy*, 189. This customs vessel participated in the expedition to Beishui.

¹⁰⁶ Robertson to Hammond, 28 May 1866, FO 17/802, 259.

necessity of accepting the situation which Foreign intercourse and commerce are forcing upon the Empire'.¹⁰⁷ The Canton authorities continued to act on this awakening sense. By the end of the year, they had concluded that as 'repeated cases of piracy had occurred in the seas of eastern Guangdong in recent years, we must purchase steamships to patrol the waters'. They thus purchased three steamers, the *Chengqing*, *Suijing*, and *Zhenhai* from France, as well the *Feilong* and two gunboats, the *Anlan* and *Zhentao*, from Britain. Ruilin and Jiang Yili considered the success they had in purchasing these ships unprecedented. They personally sailed on the *Chengqing*, *Feilong*, *Zhenhai*, and *Suijing*, and vouched for the vessels' seaworthiness. The steamers had crews of local militiamen chosen for their 'familiarity with foreign affairs', who served under foreign officers.¹⁰⁸ Unlike Osborn in 1863, the commanders of the Guangdong steam squadron held 'appointments under the Provincial Government'.¹⁰⁹ Though the *Anlan* and *Zhentao* were gunboats, Alcock considered that as they were 'not for war but revenue purposes, and the suppression of Piracy and smuggling, which may fairly be considered a civil service', he hoped Lord Stanley would approve of 'their being efficiently officered by British subjects' despite the restrictions of the Foreign Enlistment Act.¹¹⁰ The Canton authorities believed the vessels, under this arrangement would be 'great benefit' to China.¹¹¹

Robertson was less enthusiastic about new Guangdong steam squadron. He pointed out that the *Suijing* 'was originally built some three years since for the Macao Government, but refused' and was 'said to be unsound in her timbers'. The *Zhenhai* and *Chengqing* were also 'patchwork affairs, composed chiefly of old material, and constructed at Hong Kong, where there can be but little knowledge or appliances for such work'.¹¹² Robertson had a more positive view of the

¹⁰⁷ Alcock to Stanley, 15 February 1867, FO 17/804, 55.

¹⁰⁸ Memorial by Ruilin and Jiang Yili, TZ 6/12/*jiashen* (30 December 1867), *YWSM*, TZ/55, 5-6 in *SKQS*, vol. 417. Robertson to Alcock, 6 October 1868, FO 17/805, 263. Rawlinson, *China's Struggle*, 247-248. See also Contract by Ruilin and Jiang Yili, TZ 6/5/day missing (c. June 1867), FO 228/926, 183-184 for the terms of purchasing the gunboats.

¹⁰⁹ Robertson to Alcock, 6 October 1868, FO 17/805, 266.

¹¹⁰ Alcock to Stanley, 17 November 1868, FO 17/805, 261-262. For a list of the officers of four of the vessels of the Guangdong steam squadron, see Robertson, 'Return of Foreigners serving in H.I.C.M.'s Steamers "An-lan", "Chen-to", "Fei-loong", & "Sui-tsing"', FO 17/805, 267-268.

¹¹¹ Memorial by Ruilin and Jiang Yili, 30 December 1867, *YWSM*, TZ/55, 6 in *SKQS*, vol. 417.

¹¹² Robertson to Alcock, 16 October 1867, FO 17/804, 86-87.

British steamer *Feilong*, which he claimed ‘worked hard during the Tsao Chung [Caochong] affair in the conveyance of troops, treasure, and despatches, and was of immense service to the government’.¹¹³ Piratical disturbances in Caochong in Xinning prompted Ruilin’s request to charter the *Sir Jamsetjee Jeejeebhoy* in 1866. From Robertson’s report, it seems the iron paddle steamer, *Feilong*, played a key role in finally resolving the issue. Though the steamers that suppressed piracy at Caochong were British-built, they were under Qing command and enabled the Canton authorities to deal with the problem of piracy at Caochong without calling for assistance from the Royal Navy.

The Guangdong steam squadron also participated with British forces joint expeditions against pirates. Despite Robertson’s reservations about its seaworthiness, the *Suijing*, with the lieutenant-colonel of Dengqing, Wu Diwen, onboard accompanied HMS *Bouncer*, commanded by Lieutenant Rodney M. Lloyd, to Jiazi, where Lin Yaqi, of ‘Hingling village’ in Xin’an reported that his vessel, the *Kum Tsum Yik* [*Jinquanyì*], had been plundered.¹¹⁴ When the villagers ‘refused to acknowledge [Qing officials’] authority’, Lieutenant Lloyd ‘moved the “Bouncer” in company with the Chinese Vessels, to an anchorage which placed four of the delinquent villages within gunshot’. This joint exercise of gunboat diplomacy proved effective and the villagers agreed to pay compensation for the *Kum Tsum Yik*’s losses, even though the Qing officials’ investigation proved quite different from the allegations in Lin Yaqi’s report. Though the expedition failed to capture any pirates, Lloyd nonetheless considered himself ‘indebted to Captain Ja[me]s Stewart of the “Sui Tsing” for a kind courtesy and ready coöperation throughout these proceedings, also to the Blue Button Mandarin [Wu] for his valuable and able assistance at all times’.¹¹⁵ On hearing reports of the expedition, however, Ruilin concluded that no piracy had taken place at Jiazi and that the case was rather one of

¹¹³ Ibid, 85.

¹¹⁴ ‘Special Report of Piracy No. 8’, ADM 125/13, 246. I have been unable to find the Chinese name of Hingling.

¹¹⁵ Lloyd to Ross, 26 June 1868, ADM 125/13, 234, 239, 242.

shipwreck and plunder. He nonetheless had 'strict orders issued for the elders to tell their wards to focus on fishing and agriculture' rather than piracy and plunder.¹¹⁶

Ruilin was distressed by the naval intervention at Jiazi, where no piracy had occurred. While Qing naval forces lacked 'steam-powered paddle warships', Ruilin admitted to Robertson that he 'could only rely on your honourable country's warships for assistance'. With steamers under his command, however, Ruilin had the confidence to insist that 'robberies and kidnapping' on the coast of the mainland were 'solely the responsibility of local civil and military officials of China' and that the Royal Navy 'need not be bothered' with 'expeditions to capture bandits that do not take place on the great ocean'.¹¹⁷ Having control of a steam squadron allowed the Canton authorities to more firmly assert sovereignty over the coast and invoke the international law concept of territorial waters to limit the Royal Navy's actions to the high seas of the 'great ocean'. Steamships gave Ruilin more confidence in his ability to police Guangdong's territorial waters. This emergence of an increasingly independent and effective Qing naval force in Guangdong coincided with a decision by the Lords Commissioners of the Admiralty that they did 'not consider the Protection of the Chinese Home Trade to come within the line of their duties; they have placed cruizers to protect British Commerce'. Though seeking to limit the Royal Navy's responsibilities in China, the Admiralty nonetheless harboured 'hopes that the increased Force of armed Cruizers belonging to different Maritime Nations, with such uncertain assistance as may be rendered by the newly purchased Chinese Flotilla... will prevent any acts of violence against Foreign Merchant Vessels'.¹¹⁸ The Royal Navy would continue to support the Qing in suppressing piracy though, even in cooperation with Qing steam vessels, actions by warships could be problematic and were limited in their effect. Steam and firepower were not the only means of dealing with pirates. Adhering to the adage that the pen is mightier than the sword, British and Qing policymakers also used legislation to suppress piracy.

¹¹⁶ Ruilin to Robertson, undated, FO 228/926, 101.

¹¹⁷ Ruilin to Robertson, TZ 7/6/11 (30 July 1868), FO 228/926, 93-94.

¹¹⁸ Admiralty to Foreign Office, 5 June 1868, FO 17/804, 351-353.

Prohibiting Piracy through Policy

In the aftermath of the *Arrow* War, piracy, always problematic, became an increasingly common issue in Hong Kong. By 1861, the Hong Kong Police had developed a system of 'Special Reports' of piracy allowing for a closer cooperation between colonial officials and the Royal Navy. Many of these reports were forwarded along with witnesses or petitioners to the senior naval officer at Hong Kong who would then send a gunboat to try to resolve the matter.¹¹⁹ British officers would often involve the Kowloon authorities in this system. The frequency of these reports in the mid-1860s suggests that the problem of piracy was getting out of control.¹²⁰ Cooperative expeditions between Qing forces, including the Guangdong steam squadron, and the Royal Navy against pirates apparently had a limited effect on suppressing piracy. To deal with the problem of piracy and crime and general, Richard Graves MacDonnell, on becoming governor of Hong Kong, vowed to introduce a policy of 'selfpreservation [sic] and protection. To root criminals out of our midst and cast them back to their own shores, there to look for sustenance and booty'.¹²¹ MacDonnell discovered, however, that Hong Kong's 'selfpreservation and protection' would also require measures by Qing authorities to deal with the problem of piracy. The measures adopted against piracy at Hong Kong would require dialogue between Hong Kong, Canton, Beijing, the Royal Navy, and indeed London and the wider world. Policies adopted at Hong Kong catalysed an international effort against that perennial enemy of all, the pirate.

¹¹⁹ For example, see James Jarman, 'Special Report No. 1', 12 April 1861, ADM 125/7, 431. This report refutes Grace Fox's claim that police reports of piracy from Hong Kong first appeared in China Station records in 1864. Grace Estelle Fox, *British Admirals and Chinese Pirates* (London: K. Paul, Trench, Trubner & Co., 1940), 155-156

¹²⁰ At least twenty-six reports were filed in 1864, thirty-nine in 1865, seventeen in 1866, thirty-one in 1867, and twenty in 1868. Compiled from 'Special Reports of Piracy' found throughout ADM 125/96. By 1867, forms were pre-printed for special reports of piracy. See 'Piracy, Special Report Of. – No. 21', 23 December 1867, ADM 125/96, 406.

¹²¹ MacDonnell to Carnarvon, 23 November 1866, CO 129/116, quoted in Christopher Munn, *Anglo-China: Chinese People and British Rule in Hong Kong, 1841-1880* (Hong Kong: Hong Kong University Press, 2009; originally published by Curzon Press, 2001), 342.

Developments in the Prohibition Regime at Hong Kong

MacDonnell's proposed policies included 'registration and control of Native Craft, Improvements in the Police and Sanitary arrangements of the town, a new court for the trial of Piracy cases, the Registration of Houses, Servants, &c', which were all 'part of one plan' to reduce crime in Hong Kong.¹²² Notably, many parts of MacDonnell's 'one plan' dealt with piracy. Though he was not the first governor to attempt to introduce legislation to suppress piracy, his policies were more thorough and effective than those of any of his predecessors.¹²³ One of the principal problems in dealing with piracy at Hong Kong, according to MacDonnell, was that '*no attempt has ever been made hitherto to take the slightest cognizance of the movements by night or by day of the native craft visiting [Victoria Harbour], numbers of which are fast sailors – armed to the teeth*'.¹²⁴ These armed vessels could easily and often did turn pirate. Though the British colonisation of Kowloon was meant to consolidate control over Victoria Harbour, the freedom of navigation that Chinese vessels enjoyed as well as the easy access to arms and ammunition at the free port of Hong Kong made the colony a haven for pirates.¹²⁵ Given such a state of affairs, the British minister at Beijing pointed out, in response to MacDonnell's complaints about Chinese piracy, that 'the Chinese Government might urge in Justification of their seeming apathy that no efforts of theirs could avail so long as Hong Kong and Macao and the former especially afforded a sure refuge to pirates and all the means of arriving, refitting, and disposing of their booty'.¹²⁶ MacDonnell decided to act by implementing a system of registration of all Chinese vessels that visited Hong Kong to better monitor potential pirates.

¹²² MacDonnell to Cardwell, 28 July 1866, FO 17/803, 277-278. The components of MacDonnell's 'one plan' shared the feature of racist surveillance of all Chinese in Hong Kong. Personal communication by Prof. Robert Bickers, 21 January 2020.

¹²³ Fox, *British Admirals*, 156-160. See also Chappell, 'Maritime Raiding', 479-480. G.B. Endacott, *A History of Hong Kong*, revised edition (Hong Kong: Oxford University Press, 1973), 131-132. Munn, *Anglo-China*, 341.

¹²⁴ MacDonnell to Carnarvon, 27 August 1866, FO 17/803, 291. Emphasis in original.

¹²⁵ Alcock to MacDonnell, 16 March 1868, FO 17/804, 263.

¹²⁶ Alcock to MacDonnell, 29 August 1866, ADM 125/11, 225

As early as 1862, a British official observed that ‘parties in Hong Kong’ were committing piracies on ‘Vessels leaving the Harbour’ and suggested that Captain Nolloth meet the governor of Hong Kong ‘with the view of devising if possible such measures of Maritime Police as will insure [sic] a registry of all Boats entering or leaving the Harbour’ to check the problem of piracy from Hong Kong.¹²⁷ MacDonnell’s predecessor, Hercules Robinson, thus asked various colonial officials about implementing a system of registration, but most were against it and doubted its efficacy. Harbour Master H.G. Thomsett expressed the opinion that ‘two vessels of light draft to sail fast with Steam power, and a good Armament kept cruising between Macao and Single Island will do more to stop piracy in the vicinity of the Colony than any system of Registry [sic]’.¹²⁸ Charles May, the acting chief magistrate, was of the opinion that ‘Registration under the circumstances of clashing nationalities... (viz. Chinese, Portuguese, British) and apart from Harbour regulation, as regards Piracy, is a snare and delusion’.¹²⁹ The international nature of the Canton Delta would make any unilateral implementation of a system of registration difficult.

By 1865, however, the ‘prevalence of piracy in the Chinese seas’ had become so dire that it ‘had engaged the earnest attention of Her Majesty’s Government’. Whitehall ‘anxiously considered whether the Colony of Hong Kong could not and ought not to be enabled to take a more effectual part than heretofore in controlling that evil’. The Colonial Office suggested improving the ‘efficiency of the Present Police system’ and involving the Royal Navy in a system of registration that would provide naval officers with ‘useful knowledge respecting the character of the vessels frequenting the Port, and the means of obstructing their proceedings if piratical’.¹³⁰ MacDonnell responded by issuing Ordinance No. 6 of 1866, which required junks entering any harbour in Hong Kong to obtain a licence from the harbour master. Licences recorded, among other things, the ‘name, address and description of the owner or owners of such junk and of the master’, a ‘description of the cargo on board and number of the crew’, and

¹²⁷ ‘Extract from a Letter to the “Senior Officer H.M. Ships Hong Kong dated 1st May 1862’, ADM 125/8, 275.

¹²⁸ Thomsett to Alexander, 19 June 1862, ADM 125/8, 286.

¹²⁹ May to Alexander, 19 June 1862, ADM 125/8, 294.

¹³⁰ Cardwell to MacDonnell, 26 December 1865, FO 17/803, 280-281.

‘whether carrying any and what guns and ammunition’. The ordinance also made it ‘lawful for any person deputed thereto by the Governor or by the commander of any of Her Majesty’s ships-of-war or for any other officer or constable of the Police Forces, at any time to board any junk within the waters of the Colony’ to inspect a junk’s licence.¹³¹

To help uphold registration and improve Hong Kong’s policing of its own waters, MacDonnell passed Ordinance No. 9 of 1866, which created the ‘High Court of Hongkong for the Suppression of Piracy’. In addition to having jurisdiction over cases of piracy that the Supreme Court of Hong Kong exercised, the piracy court could also try confederates of pirates. Anyone who ‘shall knowingly have set forth any pirate or aided, assisted, maintained, procured, commanded, counselled, or advised any person whatsoever to do or commit any piracy’; who knowingly traded with pirates or received goods or vessels taken piratically; or who was onboard a piratical vessel and unable to prove non-complicity, could be sentenced by the piracy court.¹³² In passing the ordinance, however, MacDonnell admitted ‘the difficulty of legislating cases of Piracy – an international offence – without in some manner exceeding the power of the local Legislature’.¹³³ To help deal with this problem, Consul Robertson at Canton proposed ‘the establishment of a Mixed Court, something in the example of the Slave Courts in the [sic] Havana’ as ‘all the captures [of pirates] are made in a Chinese territory or jurisdiction rather, and consist of Chinese Subjects and their vessels’.¹³⁴ Robertson’s invoking of slave courts and MacDonnell’s comment on piracy as an international offence, make Hong Kong’s measures to deal with piracy an example of the jury-rigged ‘prohibition regimes’ that characterised British attempts to deal with pirates and slave traders as they sought to impose order on the world’s oceans in the nineteenth century.¹³⁵ May’s 1862 comment on the ‘clashing nationalities’ that

¹³¹ Ordinance No. 6 of 1866. Accessed through ‘Historical Laws of Hong Kong Online’: <http://oelawhk.lib.hku.hk/exhibits/show/oelawhk/home>

¹³² Ordinance No. 9 of 1866. Accessed through ‘Historical Laws of Hong Kong Online’: <http://oelawhk.lib.hku.hk/exhibits/show/oelawhk/home>

¹³³ MacDonnell to Carnarvon, 28 August 1866, FO 17/803, 259.

¹³⁴ Robertson to Hammond, 11 June 1866, FO 17/803, 6.

¹³⁵ Prohibition regimes against piracy and the slave trade were ‘centered on an awkward combination of bilateral treaties, municipal law, admiralty law, and diplomatic negotiation’. Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800-1850* (Cambridge, MA: Harvard University Press, 2016), 119.

would impede an effective system of registration and MacDonnell's reference to the implications piracy had in international law meant a prohibition regime against it at Hong Kong would require international assistance in its implementation.

Expanding the Prohibition Regime

When MacDonnell implemented a system for the registration of Chinese vessels at Hong Kong, the Colonial Office decided that if such a policy required the 'aid of the Chinese Government', he should consider implementing the system 'with that aid, and the mode in which the co-operation of the Chinese Government might most usefully be given'.¹³⁶ MacDonnell was himself 'very desirous that a similar enactment should be carried out along the Chinese coasts'.¹³⁷ Hoping to expand the system of registration beyond Hong Kong, he apprised Ruilin at Canton of the new policy at Hong Kong 'with a view to ascertaining how far the Chinese could co-operate with one in legislating for the same purpose', concluding that there was 'a fair probability of partial ultimate success'.¹³⁸ From MacDonnell's proposals, transmitted via Robertson, Ruilin admitted he 'could see the honourable consul and His Excellency MacDonnell's peaceful and good intentions to protect merchant vessels and extirpate pirates' and declared that such intentions were 'indeed a source of great joy'. He agreed to consult with other Canton officials regarding responsive measures.¹³⁹ Authorities at Canton did not adopt similar measures for registering Chinese craft in Guangdong, however. Declaring that 'extirpating pirates and restoring peace was a truly important responsibility of local officials', Ruilin pointed out that Chinese junks 'when leaving and entering various ports, undergo a system of registration and inspection, which is carried out according to local circumstance'. He decided not to change the piecemeal, localised system but agreed to discuss ways for its improvement with other Canton authorities.¹⁴⁰

¹³⁶ Cardwell to MacDonnell, 26 December 1865, FO 17/803, 280-281.

¹³⁷ MacDonnell to Alcock, 16 May 1866, FO 17/803, 32.

¹³⁸ MacDonnell to Cardwell, 28 June 1866, FO 17/803, 209.

¹³⁹ Ruilin to Robertson, TZ 5/5/12 (24 June 1866), FO 228/926, 241-242.

¹⁴⁰ Ruilin to Mayers, TZ 5/9/5 (13 October 1866), FO 228/926, 235-236.

MacDonnell also had 'a long personal conference' with José Rodrigues Coelho do Amaral, the governor of Macau, on the matter of registering Chinese junks. Amaral agreed to 'exert himself to devise measures for assisting the operation and objects of the recent Legislation here', but MacDonnell expressed doubts, believing that 'reform at Macao will probably be tardy'.¹⁴¹ An international system of registration was but a step towards MacDonnell's ultimate goal of the disarmament of all Chinese junks with the exception of Qing warships. He believed prohibiting Chinese vessels from carrying 'cannon, stink-pots, or other munitions of war on board' and prosecuting those that did as pirates was the measure most 'likely, thoroughly, and permanently to put an end to Piracy' in the China Seas.¹⁴²

In the same 1862 report where he advised against implementing a system of registration, Charles May also predicted that the disarmament of all Chinese junks 'would be a species of self-immolation, and tend to a diminution of trade with Hong Kong'.¹⁴³ Despite this warning, by 1866, the increasingly desperate situation of piracy gave MacDonnell the courage to enact bold legislation for its suppression. Unlike registration or expanding the capacity of colonial courts to deal with piracy, however, disarmament could not only be implemented at Hong Kong. It would need to be enforced all along the coast to be effective. Executing such a policy would require international cooperation. Rutherford Alcock believed that as the Qing government was 'consciously and manifestly incapable of affording by its own Cruizers efficient protection to its traders there would be palpable injustice as well as impolicy' in enacting disarmament, which 'would answer no other end than to disarm the honest trader and offer a direct encouragement to Piracy by leaving them an easier victim'. He nonetheless expressed hope to MacDonnell that

¹⁴¹ MacDonnell to Carnarvon, 31 October 1866, FO 17/804, 4-5.

¹⁴² MacDonnell to Alcock, 16 May 1866, FO 17/803, 29. According to one British captive of Chinese pirates in 1857, a stinkpot was 'an earthen pot about the size of a thirty-two-pound shot, half filled with gunpowder, and sometimes mixed with sam-chew or Chinese gin. It is covered by a concave lid, fastened on with chunam or whiting. On this lid is placed a piece of ignited charcoal. The pot is then put into a bag, by which it is held, and slung from the mast-head. Being alight, when it falls on anything hard, it breaks, and the powder ignites and burns powerfully'. Edward Brown, *A Seaman's Narrative of his Adventures during a Captivity among Chinese Pirates, on the Coast of Cochin-China, and Afterwards during a Journey on Foot across that Country in the Years 1857-8* (London: Charles Westerton, 1861), 23.

¹⁴³ May to Alexander, 19 June 1862, ADM 125/8, 292-293.

‘by the combined efforts of Your Excellency, the naval Commander-in-Chief, and the Central Power here working through their very efficient Foreign Custom House administration as well as the Provincial Authorities, we may in the end secure a satisfactory result’.¹⁴⁴ Vice-Admiral Keppel, Governor-General Ruilin, and the Zongli Yamen, as well as MacDonnell and Alcock, would thus all have an important role in implementing a prohibition regime against piracy.

MacDonnell discussed his plans for disarmament with Ruilin first. Noting that Hong Kong’s government ‘claims no jurisdiction over the shores of China, and has no authority to enforce international Law beyond three miles from its own territory’, MacDonnell suggested

the expediency of some Legislation being adopted by the Chinese Government to prohibit any but vessels of the Imperial Navy carrying cannon, Stink Pots, Guns, Gunpowder, or other munitions of war, and declaring that all vessels doing so after a certain date shall be regarded as Pirates and liable to forfeiture with their cargoes.¹⁴⁵

Robertson, who decried the ‘utter impossibility and futility’ of disarmament, nonetheless communicated MacDonnell’s proposal to Ruilin who considered the policy ‘in advance of the Times’ and impossible to implement ‘unless security from Piracy could be guaranteed along the whole coast of China’.¹⁴⁶ The Royal Navy was the force in China most capable of guaranteeing such security, but its overseers also sought international support and sanction in suppressing Chinese piracy. In January 1866, the Admiralty decided that the ‘great interest of British Commerce in those [China] seas demand [sic] that a systematic attempt should be made, in concert with the other great maritime Powers, and with the consent of the Chinese Govt., to afford that protection which it is unable to give’. The Admiralty’s call for the participation of other maritime powers in suppressing piracy sprang partly from the fact that ‘the Commander in Chief will not be able with the Force now under his Orders to detach more vessels for the suppression of Piracy, looking to the great and continued demands made upon on account of British interests and their representatives in China’.¹⁴⁷

¹⁴⁴ Alcock to MacDonnell, 29 August 1866, ADM 125/11, 229-230, 234.

¹⁴⁵ Mercer to Robertson, 17 May 1866, FO 17/803, 36-39.

¹⁴⁶ Robertson to Hammond, 28 May 1866, FO 17/802, 256-257.

¹⁴⁷ Admiralty to Foreign Office, 12 January 1866, FO 17/802, 74, 77.

To bolster efforts for suppressing piracy, the Foreign Office issued instructions to British ambassadors in various foreign capitals to request naval cooperation. Lord Clarendon suggested to Frederick Bruce, now ambassador to the United States of America, that the 'alarming Increase of Piracy in the China Seas' warranted 'the serious attention of all nations having commercial intercourse with China'. According to Clarendon:

Great Britain employs on the Coast of China a considerable Naval Armament for its protection and exerts her strongest influence at Peking to endeavour to induce the Chinese Govt. to act up to its Treaty Engagements towards the British Crown which bind it to concert with England measures for the suppression of Piracy.

Despite the preponderance of British power in China, the Foreign Office, at the behest of the Admiralty, nonetheless requested that other maritime powers 'unite their efforts with those of England for the suppression of an evil which alike threatens the commerce of all'. To this end, British ambassadors requested that Washington, Paris, St. Petersburg, and Berlin, instruct their ministers at Beijing and their senior naval officers in China to 'act in concert with H.M. Minister at Peking in urging the Chinese Govt. to take effective measures for the suppression of Piracy and to co-operate with the British Admiral in proportion to the extent of their Naval Force in China to effect that object'.¹⁴⁸ The Foreign Office also requested its representatives in Spain, Portugal, Holland, Denmark, Austria, and Italy, maritime powers with 'no diplomatic representation in China', to suggest that if the naval forces of those countries could 'in any way contribute' to the suppression of piracy to 'not be disinclined [sic] to do so'.¹⁴⁹

With agreements from Austria, Russia, Denmark, Prussia, and Spain to cooperate in suppressing piracy, Alcock sought to emphasise to Qing leaders 'the certainty that they will be held to the strict performance of Treaty Engagements' and 'may expect from all the Maritime Powers representations and remonstrances which may be hard to deal with unless they make up their minds to co operate zealously for the suppression of an evil which affects China nearly if not more than it does Foreign Powers'. Towards this end, Qing authorities could 'avail

¹⁴⁸ Clarendon to Bruce, 22 January 1866, ADM 125/10, 525-527.

¹⁴⁹ Clarendon to Crampton, 22 January 1866, ADM 125/10, 539-530.

themselves of the support of the Naval forces of Foreign Powers'.¹⁵⁰ In support of Alcock's efforts, the Admiralty ordered Vice-Admiral George King to be prepared 'to organise with the Naval Commanders of the several Foreign Powers a system for vigorously repressing piracy'.¹⁵¹ Vice-Admiral Henry Keppel, King's successor as commander-in-chief of the China Station, would execute this order, meeting with his 'brother Admirals of France and United States, Russia, Prussia, and Netherlands, too', to discuss disarmament in June 1867.¹⁵² Keppel was also 'induced by the importance of the subject to visit Peking, and personally confer, not merely with Sir Rutherford Alcock, but also his foreign colleagues'.¹⁵³ Naval officers played a key role in diplomatic discussions of the disarmament of Chinese vessels at Beijing. Keppel suggested to other naval commanders in China that, among other things, 'it shall be illegal for any trading Junk to carry Ordnance', and that twelve months after declaration of such a prohibition, 'all such Vessels with Ordnance on board shall be detained and handed over to the Chinese Government to be dealt with as Pirates'.¹⁵⁴ In treating illegally-armed Chinese junks as pirates, Keppel was adapting the British system of considering slave traders as a type of pirate to justify naval action against them. Like the Duke of Wellington at the Congress of Verona in 1822, Keppel also attempted unify international opinion in condemning a certain type of naval activity, in this case the carrying of ordnance in Chinese junks rather than carrying of slaves, as piracy.¹⁵⁵ As well as treating armed junks as pirates, Keppel also suggested that 'European men of war stationed in China' help protect disarmed junks from maritime predation. He furthermore proposed that 'the Chinese Government shall number and maintain a complete registration of their Vessels', an echo of MacDonnell's policy of registration at Hong Kong.¹⁵⁶

¹⁵⁰ Clarendon to Alcock, ADM 125/10, 556-557

¹⁵¹ Admiralty to King, 26 March 1866, ADM 125/10, 708.

¹⁵² Keppel, *Sailor's Life*, vol. 3, 144.

¹⁵³ Keppel to Admiralty, 18 December 1867, ADM 125/12, 481.

¹⁵⁴ Keppel to Escher, 28 June 1867, FO 17/804, 116. Similar letters were addressed to the naval commanders-in-chief of France and the United States. See note in margin of *ibid*, 115.

¹⁵⁵ Keith Hamilton and Farida Shaikh, 'Introduction', in *Slavery, Diplomacy and Empire: Britain and the Suppression of the Slave Trade, 1807-1975*, ed. Keith Hamilton and Patrick Salmon (Brighton: Sussex Academic Press, 2009), 9. Benton and Ford, *Rage for Order*, 127.

¹⁵⁶ Keppel to Escher, 28 June 1867, FO 17/804, 116.

Captain W.B.F. Escher of the Dutch navy commented that Keppel's proposed measures would 'prove highly beneficial to the end in view' of suppressing Chinese piracy.¹⁵⁷ Contre-Amiral Pierre-Gustave Roze, commander-in-chief of the French naval division in the China Seas, agreed 'without restrictions' to Keppel's proposals, believing they would be 'a great benefit for all nations as well as for China herself'.¹⁵⁸ Rear-Admiral Henry Bell, commanding the US Asiatic Squadron, considered the disarmament of junks 'so highly judicious, and should Embrace pistols and muskets, as well as cannon'. Though largely agreeing with Keppel's proposed measures, Bell expressed concern that the 'enforcement of these articles would require a degree of vigor, in visitation and search, that would render the procedure vexatious and odious, to an extent fruitful of evil, and should be left Exclusively to the Chinese Authorities'.¹⁵⁹ Despite Bell's reservations, Keppel reported a 'perfect unanimity of opinion' of the naval commanders regarding the registration and disarmament of Chinese junks to Alcock.¹⁶⁰ Pressured by the opinions of the naval commanders, Alcock and his French and American counterparts agreed to bring the proposal for the registration and disarmament of Chinese junks before Prince Gong. Keppel himself joined Alcock's meeting with the prince, helping to

impress upon the Prince and other High Officers there assembled, that the time had arrived when they should themselves take steps for the suppression of Piracy, and that we should be happy to co-operate with them most cordially to that end, but it would be their duty to commence, by striking the two death blows to piracy, namely disarmament and registration.¹⁶¹

Keppel, as commander-in-chief of the China Station, thus played an important diplomatic role in drafting policy for the international prohibition regime against piracy in China. The foreign ministers at Beijing made no amendments to Keppel's proposals. In response, Prince Gong agreed to issue orders to 'the High Officers of the two Maritime Provinces to devise means for giving effect to a Law for the disarmament and registration of all native vessels'.¹⁶² Prince Gong

¹⁵⁷ Escher to Keppel, 29 June 1867, ADM 125/12, 516.

¹⁵⁸ Roze to Keppel, 18 July 1867, ADM 125/12, 490-491.

¹⁵⁹ Bell to Keppel, 22 October 1867, ADM 125/12, 503, 505.

¹⁶⁰ Keppel to Alcock, 25 September 1867, ADM 125/12, 521.

¹⁶¹ Keppel to Admiralty, 18 December 1867, ADM 125/12, 482-483.

¹⁶² Alcock to Stanley, 16 March 1868, FO 17/804, 204.

further identified the governor-general of Guangdong and Guangxi as ‘the person entrusted with the disposal of the Revenue of those important Provinces, and having the chief power and influence for carrying out any measures for the suppression of Piracy in the South of China’.¹⁶³ Though Chinese piracy had by this time assumed international implications, Beijing still considered that the authorities at Canton could resolve the matter.

Keppel accordingly met Ruilin at Canton to discuss the matter on 27 February 1868. Ruilin was not ‘in favor of a *general* disarmament, considering that trading vessels which sail with cargoes representing a large amount of capital should not be deprived of the means of defence’ but decided not to ‘extend this rule to fishing boats, which have no valuable cargo to defend’. Ruilin, compromising with Keppel’s proposals for disarmament decided to draft a proclamation ‘prohibiting fishing junks from carrying guns, small arms, explosive material, or gunpowder’.¹⁶⁴ The governor-general nonetheless continued to resist adopting the system of registration in force at Hong Kong, insisting that existing systems were sufficient so that any junk ‘could readily prove her occupation’. In response, Keppel suggested that it would ‘surely be practicable to supply the Commanders of the Foreign Vessels (who are engaged to cooperate in the suppression of piracy) with a translation from the Chinese Shipping List’.¹⁶⁵ The Royal Navy was willing to enforce Qing law in Chinese waters. The Hong Kong prohibition regime against piracy also reacted to policies adopted at Canton. Ordinance No. 2 of 1868 introduced the policy of disarmament to Hong Kong. In light of Ruilin’s compromises with Keppel’s suggestions, however, MacDonnell was careful to ensure that the Hong Kong executive’s ‘power of framing orders for the partial or total disarmament of all fishing and trading Chinese Junks’ would be exercised in a way to ‘keep pace with the exertions now being made by the Chinese Authorities to put down Piracy’. The ordinance, MacDonnell pointed out, was ‘based on a policy entirely

¹⁶³ MacDonnell, ‘Memo for the use of His Excellency Vice Admiral The Honorable Sir Henry Keppel, KCB’, 24 February 1868, ADM 125/12, 541.

¹⁶⁴ Keppel to Admiralty, 7 March 1868, ADM 125/12, 527-528. Emphasis in original.

¹⁶⁵ Keppel to MacDonnell, 2 March 1868, ADM 125/12, 533-535.

exceptional and experimental'.¹⁶⁶ Ruilin's efforts at disarming Chinese junks at Canton would determine the policy adopted at Hong Kong.

In May 1868, Ruilin issued a 'stringent prohibition against the carrying of cannon and arms by fishing boats for the purpose of cutting off a source of piracy'. In a concession to MacDonnell, the proclamation also banned all Chinese craft from carrying stinkpots.¹⁶⁷ MacDonnell observed that stinkpots 'appear almost invariably to be used as weapons of offence and not defence'.¹⁶⁸ Noting that 'the use of what are known as Stink Pots is even more effective for piratical purposes than that of Ordnance', MacDonnell adamantly advocated for their general ban.¹⁶⁹ In implementing a system of disarmament at Canton, Ruilin conceded to this demand. Ruilin's proclamation authorised the Royal Navy to help implement the prohibition, which would go into effect 19 July 1868, after which time 'any fishing boat' found 'with arms or ammunition on board, or any trading vessel carrying stinkpots' would be seized, 'confiscated without fail, and the penalties of the law shall be inflicted upon their owners'.¹⁷⁰ Robertson considered Ruilin's proclamation 'proof of the earnest desire of the Chinese authorities to assist in the suppression of piracy on the Coast of China'.¹⁷¹

'The Experiment Has Failed'

Guangdong's hydrarchy did not respond positively to Ruilin's proclamation. A group of junk owners from Xiangshan and other districts complained that the 'various fishing vessels' in Guangdong were 'numerous and diverse. When they go to sea to fish, some also trade and are inspected by officials. The distinction between fishermen and merchants is not definite' and a disarmament of fishing vessels would 'certainly put them in danger'. Ruilin, 'noting the general

¹⁶⁶ MacDonnell to Buckingham, 9 June 1868, FO 17/805, 68-69.

¹⁶⁷ 'Proclamation by the Viceroy of the Two Kwang Provinces, &c. &c.', undated, trans. Mayers, ADM 125/13, 79.

¹⁶⁸ MacDonnell to Amaral, 2 October 1866, FO 17/804, 24-25.

¹⁶⁹ MacDonnell to Buckingham, 30 November 1867, FO 17/804, 112.

¹⁷⁰ 'Proclamation', ADM 125/13, 81. Ruilin later thought that his steam squadron would be sufficient to handle the matter and that he could 'dispense with the aid of the British Squadron in effecting the disarmament of native Junks'. Foreign Office to Admiralty, 24 August 1868, ADM 125/13, 1073.

¹⁷¹ Robertson to Hammond, 4 April 1868, FO 17/804, 317.

situation', concluded that there were 'obstacles' to enforcing the prohibition.¹⁷² Instead, he decided to resurrect the system of *aojia*, or anchorage groups, in which every ten vessels were grouped together under an anchorage head and every ten anchorage groups put under a port chief. With anchorage heads and port chiefs as well as Qing port authorities regulating junks, Ruilin believed that 'boatmen will not dare become pirates; those who commit piracy will without difficulty be captured'.¹⁷³ As mentioned in the Introduction, the *aojia* system had existed since the early eighteenth century and was based on the *baojia* system of mutual surveillance and household registration on land.¹⁷⁴ The system was in abeyance by 1868, but the British attempts to implement a prohibition regime against piracy gave Qing officials in Guangdong an opportunity to renew it. Rather than implement policies suggested by MacDonnell and Keppel, Ruilin decided to rehabilitate a traditional Qing system of maritime control.

Ruilin's reversion to the *aojia* system instead of implementing disarmament forced MacDonnell at Hong Kong to cancel 'an Order in Council enforcing disarmament of Fishing Vessels here with a view of keeping abreast of similar action taken by the Vice Roy'. The disarmament policy at Hong Kong would only be effective if 'such an attempt was part of a system undertaken in unison with neighbouring powers, so as to secure traders visiting Hong Kong against any greater inconvenience than they would be exposed to elsewhere'.¹⁷⁵ In response, Macau Governor António Sérgio de Sousa retracted a 'portaria' (ordinance) regarding the disarmament of fishing vessels, though its proclamations regarding registration would remain in force.¹⁷⁶ The prohibition regimes against piracy at Hong Kong and Canton also affected policy at Macau.

¹⁷² Ruilin to Robertson, TZ 7/8/27 (12 October 1868), FO 228/926, 76.

¹⁷³ Memo by Ruilin, FO 228/926, 78. See also 'Note from the Viceroy to H.M.'s Consul', 6 September 1868, trans Mayers, ADM 125/13, 1027-1029.

¹⁷⁴ Robert J. Antony, *Unruly People: Crime, Community, and State in Late Imperial South China* (Hong Kong: Hong Kong University Press, 2016), 77.

¹⁷⁵ MacDonnell to Buckingham, 17 September 1868, FO 17/805, 180-181.

¹⁷⁶ De Sousa to MacDonnell, 21 September 1868, translator unknown, FO 17/805, 212.

With the retraction of the disarmament proclamation at Canton, Robertson proclaimed that ‘the experiment has failed’.¹⁷⁷ The failure of the experiment of disarmament led Alcock to bring the matter to the attention of the Zongli Yamen and ‘confer with Sir Henry Keppel as to the ulterior steps it may be desirable to take in regard to Piracy’.¹⁷⁸ In the meantime, Ruilin pressed ahead with his resurrection of the *aojia* system, issuing new registration papers and ordering that all junks ‘who have not already taken out registers must hasten to apply for the same; and those who have already received a document of the kind must exchange it for the new register without delay’, imposing 7 August 1869 as the deadline for completing the new registers.¹⁷⁹ The registers recorded the name, native place, age, general appearance, family members, and the anchorage and group heads of each vessel’s owner. They also recorded the name, age, and general appearance of crewmembers as well as the cannon, small arms, and other weapons that the ship had permission to carry. In a concession to MacDonnell’s proposals, instructions on the register forbade vessels of any class from carrying *huoyaobao* – stinkpots.¹⁸⁰

Though Ruilin refrained from adopting the system of registration introduced at Hong Kong and failed to carry out the disarmament of fishing junks, he nonetheless decided to implement MacDonnell’s proposed ban on stinkpots. Moreover, he agreed to forward blank copies of the junk registers to Keppel to allow the Royal Navy to participate in helping to enforce the revamped system of *aojia* for control of Chinese craft.¹⁸¹ The Queen’s ships had the authority to copy the register of any Chinese vessel suspected of piracy and forward it to Canton.¹⁸² In this reincarnation of the *aojia* system, anchorage group leaders, Qing officials, and the Royal Navy could exert powers of surveillance over potential Chinese pirates. The Qing prohibition regime against piracy in Guangdong differed from Hong Kong’s, but they mutually influenced each

¹⁷⁷ Robertson to Austin, 8 September 1868, ADM 125/13, 1036.

¹⁷⁸ Alcock to Robertson, 3 October 1868, ADM 125/13, 1022.

¹⁷⁹ ‘Instructions from the Viceroy to the Judicial Commissioner, 5 February 1869, trans. Mayers, ADM 125/14, 1078.

¹⁸⁰ See Items Extracted from Documents: Flat Items: Kew (EXT 3)/7, TNA, for an example of the new junk registers.

¹⁸¹ Ruilin to Robertson, 23 December 1868, ADM 125/14, 117.

¹⁸² Keppel, ‘General Memorandum’, undated, ADM 125/14, 92-93.

other. They also shared a reliance on the Royal Navy, which continued to play an important role in suppressing piracy. MacDonnell's policies against piracy at Hong Kong may not have been replicated elsewhere, but the prohibition regimes it influenced improved British and Qing control over Chinese pirates. Along with other measures such as joint expeditions and the establishment of a steam squadron at Guangdong, the linked prohibition regimes at Hong Kong and Canton reduced the prevalence of piracy on the South China coast.¹⁸³ Though MacDonnell's policies at Hong Kong did not materialise elsewhere in China, the policies and prohibition regimes it inspired nonetheless achieved partial ultimate success in suppressing piracy in China by 1869. Piracy nonetheless persisted, and Britain and China continued to cooperate and devise new plans for its suppression.

¹⁸³ Despite the failure of the policy of disarmament, the Admiralty expressed satisfaction that by the end of 1868, 'though Piracy is by no means extinct, it is reduced in its extent and has become comparatively rare in the immediate vicinity of Hong Kong'. Admiralty (Romaine) to Foreign Office, 16 November 1868, FO 17/805, 161.

Chapter 7

‘Much Remains to Be Done’: The Persistence of Piracy and New Developments, 1869-1899

The various measures adopted by Qing and British authorities and forces against pirates discussed in the previous chapter had a significant impact on the reduction of piracy in Guangdong. While most scholarship on Anglo-Qing interaction in suppressing piracy ends in 1869, piratical activity nonetheless continued. Many of the measures, such as the resurrection of the *aojia* system of registration and the prohibition of stinkpots, were at best only partially successful, and piratical craft continued to prowl the waters of Guangdong and Hong Kong. The persistence of piracy revealed some of the problems of coordinating separate prohibition regimes in Hong Kong and Canton against pirates and necessitated new schemes by British and Qing officials for enforcing an effective collaborative imperial hierarchy. Other naval powers in China, particularly Germany, became increasingly involved in the international suppression of piracy and indeed took the initiative in organising such efforts in the 1870s. This chapter looks at new developments in piracy and its suppression in China after 1869 as well as its decreasing importance to British and Qing interests.

More efficient anti-piracy measures and technological change forced Chinese pirates to adapt and develop new methods of piracy as steam power began to transform shipping in China. A new *modus operandi* that saw pirates disguised as passengers take over steamships from within began to replace the more traditional method of overhauling, boarding, and plundering. The superior speed and firepower of the gunboats of the Royal Navy and the Guangdong steam squadron were of limited use against this new form of piracy. Cooperation between police authorities in Hong Kong and Guangdong began to play a larger role in dealing with piracies of this sort. By the mid-1870s, reports of piracy largely disappeared from the Admiralty's China Station Records, even as they pervaded the papers of magistrates and legal officials in Hong Kong; colonial authorities were taking over anti-piracy measures from the Royal Navy.

As piracy diminished as a threat to British interests in China and became a problem managed by law enforcement officers in Hong Kong and Guangdong, the Royal Navy turned its attention to other matters. In the 1880s, the principal threat to British interests came not from pirates but from an increasingly restless Chinese populace. British naval priorities thus shifted from the protection of trade against piracy to the defence of the foreign communities at the treaty ports against popular uprisings. Unable to guarantee the safety of their subjects against uprisings in the most populous empire in the world, British admirals organised cooperation between various naval forces in China for the protection of the treaty ports. Though they continued to shoulder a disproportionate share of the burden of defending foreign interests in China, the commanders-in-chief of the China Station also turned their attention elsewhere, particularly to the defence of Hong Kong, as other countries began challenging Britain's primacy in the region.

In the last decades of the nineteenth century, discussions about the defence of Hong Kong focused on its role as a depot for coal and munitions in the event of a war between Britain and another Western power and the threat of a land invasion to Kowloon. Piracy did not feature in these discussions. Whereas the colonisation in Kowloon was an exercise in the imperialism of free seas, the expansion of the colony of Hong Kong into the New Territories and surrounding islands in 1898 was principally a matter of defence. Piracy did not feature prominently in British naval, diplomatic, or colonial thinking, but the Qing retention of the Kowloon Walled City and access to the waters of New Territories allowed for the system of collaborative imperial hydrarchy, developing since 1842, to continue. An uprising by villagers in the New Territories in 1899, however, raised doubts about the retention of Qing officials in the region and, as a testament to the declining frequency and impact of piracy, British officials decided to evict the remaining Qing forces in the Kowloon Walled City, bringing an end to more than half a century of cooperation between the two sides of Victoria Harbour

1869: An *Annus Mirabilis*?

By 1869, in executing treaty law, British colonial, consular, and naval officers in China established a mode of cooperation with Qing authorities for suppressing piracy, and the

Guangdong authorities had acquired a squadron of seven steam vessels with which they could enforce a prohibition regime against piracy that arose in response to measures taken at Hong Kong. The creation of the Imperial Maritime Customs, which acquired its own steam vessels that could be used for suppressing piracy, tied an important source of Qing revenue to maritime trade and its protection and increased the significance of the problem of piracy in the Beijing official mind.¹ Though not as Governor Richard Graves MacDonnell had planned, the different prohibition regimes and collaborative imperial hydrarchy nonetheless achieved a degree of success in reducing piratical activity in Guangdong. Much scholarship on Anglo-Qing interaction against pirates ends with 1869. In these accounts, increasingly competent and independent Qing provincial and customs steamers, which allowed the Royal Navy to impose stricter limits on its actions in China, seem to have successfully suppressed piracy in South China and beyond.²

The effects of the cooperation and policies adopted by British and Qing authorities for suppressing Chinese piracy, however, were gradual, and pirates remained active after 1869.³ Moreover, British hastiness in punishing Oudingxiang at the beginning of the year showed that

¹ Jonathan Chappell, 'Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842-1869', *The International History Review* 40, no. 3 (2018), 484. Richard N.J. Wright, *The Chinese Steam Navy, 1862-1945* (London: Chatham Publishing, 2000), 189-190.

² See Chappell, 'Maritime Raiding', 486-487. Yasufumi Toyooka and Ei Murakami, 'The Suppression of Pirates in the China Seas by the Naval Forces of China, Macao, and Britain (1780-1860)' in *In the Name of the Battle Against Piracy: Ideas and Practices in State Monopoly of Maritime Violence in Europe and Asia in the Period of Transition*, ed. Atsushi Ota (Leiden: Brill, 2018), 228. Ei Murakami, *Haiyang shishang de jindai Zhongguo: Fujian ren de huodong yu Yingguo, Qingchao de yinying* [A Modern Maritime History of China: Fujianese Activity and British and Qing Responses] (Beijing: Social Sciences Academic Press, 2013), 239. Hong-kay Lung, 'Britain and the Suppression of Piracy on the Coast of China with Special Reference to the Vicinity of Hong Kong 1842-1870' (MPhil Thesis, The University of Hong Kong, 2001), 328-329. Grace Estelle Fox, *British Admirals and Chinese Pirates, 1832-1869* (London: K. Paul, Trench, Trubner & Co., 1940), 185-186. Keppel believed 'that the Chinese Steam Fleet if properly worked would be sufficient to control piracy on the Canton River, and in the neighbourhood of the Treaty Ports' and thus sought to limit 'the action of Her Majesty's Ships against piracy in Chinese waters, leaving to Her Majesty's Squadron the duty of suppressing piracy on the High Seas, or in co-operation with the Chinese cruisers on the more remote portion of the Coast line'. Keppel to Admiralty, 22 March 1869, Admiralty Records (ADM) China Station Correspondence (125)/14, 75, The National Archives (TNA), Kew, UK.

³ Royal Navy officers received at least fourteen special reports of piracy in 1869 and four in the first quarter of 1870. Figures from Special Reports of Piracy in ADM 125/96. A memorial written at the beginning of 1870, reported that 'organized associations of pirates or gangs effecting depredations on a considerable scale may be said to exist no longer, although isolated instances still occur of piracy committed as opportunity may offer by single junks'. 'Memorial by the Viceroy of the two Kwang Provinces', trans. Mayers, 19 January 1870, Foreign Office Records (FO) General Correspondence before 1906, China (17)/806, 178, TNA.

joint expeditions could be problematic, while the failure to enforce the disarmament of fishing vessels revealed the limits of the prohibition regimes at Canton and Hong Kong. Nor did efforts to revive the *aojia* system at Canton and the outlawing of stinkpots have immediate results. Even after the new system came into effect, the British consul reported to Thomas Francis Wade, Rutherford Alcock's successor as British minister to Beijing, that 'much remains to be done to ensure safety and security to life and property on the coast'.⁴ Henry Thomsett, the harbour master at Hong Kong, reported that more vessels were found carrying stinkpots in Hong Kong waters in the final quarter of 1869 than during the same period in 1868.⁵ The following year, Major-General H.W. Whitfield, the lieutenant-governor, observed that 'the vessels arriving from Canton and the Vice Roy's Provinces generally are as usual furnished with Stink pots' and concluded that Hong Kong authorities could not place 'the least reliance' on Canton's 'paper Proclamations' against the carriage of these contraband weapons.⁶ The paper proclamations continued to lack effect as two hundred and twenty-one more vessels were found carrying stinkpots in Hong Kong waters in the first three months of 1870 compared with 1869, leading the harbour master to conclude that the 'Chinese Government either cannot or will not compel this prohibition at their ports'. The discrepancy between policies at Hong Kong and in Guangdong waters, Thomsett feared, would be detrimental to the junk trade with Hong Kong, and he blamed a lack of 'honesty' on the part of the Qing and Portuguese authorities for the failure to enforce the ban on stinkpots.⁷

Canton Consul Robertson raised the issue with the governor-general of Guangdong and Guangxi, Ruilin, who responded that 'Stink pots [sic] prohibitions have been repeatedly issued and the regulations with regard thereto have been made most clear'. Given the reinvigorated *aojia* system and the layers of surveillance and accountability it created, Ruilin found it 'inexplicable how vessels from Canton and other ports on entering Hong Kong are found to

⁴ Robertson to Wade, 8 March 1870, FO 17/806, 175.

⁵ Memo by Thomsett, 8 January 1870, Colonial Office Records (CO) Hong Kong, Original Correspondence (129)/143, 162.

⁶ Whitfield to Granville, 18 April 1870, FO 17/806, 171.

⁷ Memo by Thomsett, 26 April 1870, FO 17/806, 222-223.

carry stink pots' and blamed local officials for failure to enforce the prohibition. He agreed to make efforts to punish any officials found lax in enforcing the ban on stinkpots while also issuing new orders to leaders in the *aojia* system to adhere to the regulations. At the same time, he would order the 'various Naval authorities' to 'institute a search of junks on every possible occasion' seizing and delivering for punishment any junks 'found without an Official Register, or carrying Stink pots'.⁸ Whitfield continued to doubt the ability of Qing officials to prohibit stinkpots and ultimately decided that as 'the number of vessels arriving from Canton and other ports with Stink pots on board had greatly increased' and 'stringent measures of suppression' against the practice of carrying them were 'difficult to carry out and may lead to embarrassments', he would 'take no further steps' in attempting to enforce a ban on stinkpots.⁹ Whitehall ultimately reprimanded Hong Kong officials for allowing the restriction on stinkpots to lapse and insisted it remain in force.¹⁰ Colonial officials' complaints about enforcing the stinkpot ban, however, reveal the inefficacy of Canton's attempts to enforce the resurrected *aojia* system and how it continued to influence developments at Hong Kong.

As late as 1872, the carriage of stinkpots remained a problem. MacDonnell complained that 'little care is taken by the Chinese Authorities in seeing their own Regulations observed as to the carriage of Stinkpots on board of trading vessels', which was 'a matter of some consequence, as the Admiralty Instructions constitute the presence of Stink pots strong *prima facie* evidence of intended Piracy'.¹¹ Intended piracy continued to materialise as piratical acts. In 1872, H.E. Wodehouse, a colonial official who worked with the Hong Kong Police and Fire Brigade, believed that the 'majority of piracies that have been committed in the last two years appears to have been planned and executed by an Association at the head of which were eight men, who are popularly known as the Band of Brothers'.¹² The Band of Brothers reportedly commanded

⁸ Ruilin to Robertson, 24 May 1870, trans. Brennan, FO 17/806, 234, 236.

⁹ Whitfield to Granville, 21 June 1870, FO 17/806, 221-222.

¹⁰ Colonial Office to Foreign Office, 10 March 1870, FO 17/806, 107. Foreign Office to Colonial Office, 24 June 1870, FO 17/806, 184-185.

¹¹ MacDonnell to Kimberley, 3 April 1872, FO 17/807, 48.

¹² Wodehouse to Deane, 28 March 1872, FO 17/807, 53. H.E. Wodehouse was the father of P.G. Wodehouse.

seven junks crewed by about one hundred and thirty pirates responsible for forty-nine of the sixty-six piratical attacks recorded in police reports from the beginning of 1870 to the first quarter of 1872.¹³ Though incomparable in size and capacity to the pirate fleets of the likes of Shap-ng-tsai in the middle of the century or the *ladrones* before him, the activities of the Band of Brothers give credence to the complaint of colonial officials that piracy was resurgent in the neighbourhood of Hong Kong, despite reports to the contrary from Canton.¹⁴ Wodehouse believed that the lack of action by Qing and British gunboats enabled pirates such as the Band of Brothers to 'become increasingly bold'.¹⁵ Indeed, Vice-Admiral Henry Kellett had sought to limit the actions of the Royal Navy after Qing attempts to resurrect the *aojia* system and issued a memorandum in 1871 with new orders necessitating Qing approval and involvement in any action against pirates in Chinese waters or territory. The Queen's ships were to confine their anti-piracy activities to the high seas, while the Guangdong steam squadron would deal with piracy on the coast and rivers of China.¹⁶ Meanwhile, Commodore F.H. Shortt, the senior naval officer at Hong Kong, complained that the Qing steam squadron was more often deployed to collect customs and suppress smuggling than attack pirates.¹⁷ The activity of the Band of Brothers and the failure to prevent the carriage of stinkpots showed that the arrangements of the late-1860s were not entirely successful in dealing with piracy in South China. Pirates remained active after 1869. Further measures would be necessary for suppressing their activities.

New Schemes against Piracy

Complaining that piracy was becoming more frequent as a result of limited actions by the Qing authorities and the Royal Navy and that 'although murder had been seldom resorted to by the Chinese formerly, it was now becoming the rule instead of the exception' for Chinese pirates,

¹³ Ibid, 54. Wodehouse, 'Precis of Inspector Batten's Reports 28th Jan-14th March, 1872', 28 March 1872, FO 17/807 66. See Tables A-E and 'Summary of Preceding Tables A to E', 27 March 1872, FO 17/807, 71-74.

¹⁴ Minute by Herbert, 25 August 1872, CO 129/157, 62-63.

¹⁵ Wodehouse to Deane, 28 March 1872, FO 17/807, 57.

¹⁶ See Kellett, 'General Memorandum, No. 49', 1 June 1871, ADM 125/16, 551-552.

¹⁷ Shortt to Shadwell, 13 August 1872, ADM 125/19, 145.

MacDonnell decided to act using the means at his disposal as governor of Hong Kong. Recognizing that he 'had no authority whatever to take any action outside the 3 mile line beyond the British soil here', MacDonnell nonetheless decided to send out vessels, 'apparently ordinary fishing boats' and manned by 'well-armed Volunteers from the Police Force' given leave, against the pirates. An 'Inspector of Police, a Mr. Batten' would command the off-duty police officers who would also be accompanied by 'a mandarin of Kowloon'.¹⁸ On 31 January 1872, Batten and the Kowloon officer captured two junks with two of the leaders of the Band of Brothers onboard off Yau Ma Tei (Youmadi) in British Kowloon.¹⁹ The success of the strategy of luring pirates out to attack ordinary-looking Chinese craft manned with police from Hong Kong led to a repeat operation on 6 March, resulting in the capture of 'Le Malla', a 'half-Portuguese and half-Chinese' leader of the Band of Brothers near Macau.²⁰

At Canton, Robertson complained that the Hong Kong Police had exceeded the colony's jurisdiction and that the commander of the expedition to Macau 'might, perhaps, be defined as a pirate himself'.²¹ A Colonial Office official also considered the actions of the Hong Kong Police 'questionable', even though the officers were on leave and accompanied by an officer from Kowloon.²² Another official decided that MacDonnell's 'stratagem' of adopting the system of cooperation developed between the Kowloon authorities and the Royal Navy and applying it to policemen given leave and put onboard chartered Chinese vessels 'cannot be approved'.²³ MacDonnell himself admitted that giving 'members of the Police Force leave of absence so that they might take part in expeditions really countenanced by this Government and projected by this Government would be a transparent farce and improper subterfuge, if meant as a permanent

¹⁸ MacDonnell to Kimberley, 3 April 1872, FO 17/807, 38-40.

¹⁹ Wodehouse, 'Precis of Inspector Batten's Reports 28th Jan-14th March, 1872', 28 March 1872, FO 17/807, 64. Wodehouse to Deane, 28 March 1872, FO 17/807, 55.

²⁰ Wodehouse, 'Precis', FO 17/807, 66. Wodehouse to Deane, 28 March 1872, FO 17/807, 55.

²¹ Robertson to Wade, 30 March 1872, FO 17/807, 18. One Colonial Office official commented that 'Mr. Consul Robertson is always ready to have a slap at Sir R. MacDonnell'. Minute by Rogers, undated, CO 129/143, 169.

²² Minute by Meade, undated, CO 129/157, 61.

²³ Minute by Herbert, 25 August 1872, CO 129/157, 62.

policy', but the temporary measure had served its purpose to prove the persistence of piracy in the waters around Hong Kong.²⁴

Despite the continued existence of piracy as evidenced by MacDonnell's stratagem, Kellett's successor as commander-in-chief of the China Station, Vice-Admiral Charles Shadwell, insisted that 'in the main the Chinese Government should undertake the suppression of piracy on their own coast', though he considered that a system 'more prompt and vigorous than reference to the Viceroy through Her Majesty's Consul' was necessary for efficient cooperative efforts. He suggested that 'local action with the assent of the Chinese Government through a superior mandarin at Kowloon might I dare say be got to work well'.²⁵ British authorities continued to see Kowloon as having a key role in collaborative imperial hydrarchy. When Robertson addressed the Canton authorities on the matter of piracy, Ruilin confessed that 'the duties of the Chinese Gunboats are very numerous' and that he could not spare one to be always ready to cooperate with any Royal Navy expedition sent against pirates from Hong Kong. He instead proposed sending 'two officials in a guard boat to remain in Hong Kong, who on the occurrence of a case of piracy would accompany any vessel the Hong Kong Naval Authorities might choose to send off'.²⁶ Commodore Shortt rejected the idea since 'a Chinese Official can be procured at Kowloong, if necessary,' and stationing Qing officials in Victoria Harbour to accompany British expeditions against pirates would 'shift the onus of suppressing Piracy in Chinese Waters from the Chinese Authorities to the British'. Shortt believed that this shift violated the Treaty of Tientsin and was thus 'evidently to be avoided'.²⁷ Colonial officials in Hong Kong agreed, believing that 'piracies are almost invariably committed in Chinese waters, and the presence of a Guard Boat with two Officers in the Harbour of Hong Kong would

²⁴ MacDonnell to Kimberley, 3 April 1872, FO 17/807, 44.

²⁵ Shadwell to MacDonnell, 9 April 1872, FO 17/807, 83. The previous year, Ruilin instructed the Kowloon authorities that they had to apply to Canton for permission before 'borrow[ing] a foreign vessel of war to seize pirates', and chastised Chen Deng for failing to do so. Robertson also insisted that Qing requests for Royal Navy assistance 'in the river waters' should be made through consulate. 'Extract from a desp. from Mr. Hughes HM Acting Consul at Canton to Mr. Wade', 7 June 1871, ADM 125/17, 41-43.

²⁶ Ruilin to Robertson, 19 April 1872, trans. Brennan, FO 17/807, 104-105

²⁷ Shortt to Robertson, 27 April 1872, ADM 125/19, 144-145.

therefore be of little use'.²⁸ Governor Arthur Kennedy, who succeeded MacDonnell, also refused Ruilin's offer as 'at present should a Chinese Officer be required for the purpose indicated, there is no difficulty obtaining one, according to a recognized arrangement from the city of Kowloong'.²⁹ The arrangement that Kowloon authorities would accompany Royal Navy vessels on expeditions against pirates proved robust enough to allow colonial officials and naval officers to reject a Qing proposal to station a guard boat in Victoria Harbour to facilitate cooperation against piracy.

Though Kennedy rejected further Qing assistance in dealing with pirates, he sought additional support from the Royal Navy. By August 1872, he admitted that piracy seemed largely suppressed but worried that 'unless precautionary measures are adopted, the neighbouring waters of the Colony are likely to become again infested with the Boats of robbers and pirates even now probably on the look-out for opportunities to revive their predatory habits'. He thus requested that 'one or other of Her Majesty's Gunboats' be sent 'to cruize round the Island' to deter or act against pirates. For such a service, Kennedy was willing 'to authorize the disbursement from the Colonial Treasury of such sums as may be required to recoup the Naval Establishment for the coals expended'. In addition to deterring pirates, Kennedy believed a British gunboat showing the flag in the waters around Hong Kong would 'have a good effect in preventing the numerous Chinese Revenue Cruizers of the Provincial Authorities from continuing to commit breaches of law by harassing the native vessels of the Colony, while carrying out their lawful occupations within the jurisdiction of this Government'.³⁰ An extension of Qing maritime authority into Hong Kong waters was becoming an important problem for the colony, and the governor hoped the Royal Navy would deter the activities of Qing customs agents as well as those of Chinese pirates.

²⁸ Smith to Robertson, 29 April 1872, FO 17/807, 93-94.

²⁹ Kennedy to Kimberley, 9 May 1872, FO 17/807, 89.

³⁰ Kennedy to Shortt, 8 August 1872, ADM 125/19, 147-148.

Whereas Kennedy subscribed to the opinion that ‘prevention is better than cure’, he complained that Shortt considered it ‘expedient to let well alone’.³¹ Shortt believed that ‘the rare occurrences of Acts of Piracy is attributable to the more faithful performance of the Treaty Obligations by the Chinese Authorities’ and, citing ‘the very small force at my disposal’, was reluctant to spare a gunboat to execute Kennedy’s request.³² The Admiralty agreed with the naval officer, admitting that ‘the almost complete suppression of Piracy has been effected by the efforts of the Chinese themselves’. As Qing authorities were carrying out their responsibilities in the Treaty of Tientsin, the sea lords believed that ‘any interference on the part of Her Majesty’s Government might convey a covert reproach for non-fulfilment of a contract, which in reality had been faithfully observed’.³³ The Royal Navy would henceforward take less initiative against piracy in China as Qing imperial hierarchy proved sufficient to deal with the matter without British cooperation or intervention.

Indeed, the next major naval initiative to deal with Chinese pirates came not from Britain, but another rising European power, the newly united empire of Germany. As early as 1870, Prussia had made overtures to the United States and Britain for a closer cooperation between their navies against piracy in China.³⁴ Whitehall agreed to accept ‘the proposal for *cooperation*’ but decided that ‘the manner of *combined action* remains (as proposed by Count Bernstorff [Prussian Envoy to Britain]) to be determined either by the two Govts. or by their respective Admirals’.³⁵ Such discussions for an international cooperation against piracy in China were cut short by the outbreak of the Franco-Prussian War (1870-1871) and the ‘Tianjin massacre’ of twenty-one Europeans at the French consulate and Catholic mission in that city on 21 June 1870, which dampened the mood for cooperation among Europeans and between Europe and

³¹ Kennedy to Kimberly, 13 August 1872, FO 17/807, 109.

³² Shortt to Kennedy, 12 August 1872, ADM 125/19, 150-151.

³³ Admiralty to Colonial Office, 23 October 1872, ADM 125/19, 156-157.

³⁴ Thornton to Clarendon, 21 February 1870, FO 17/806, 81-82.

³⁵ Foreign Office Memo, ‘Prussian Cooperation for the Suppression of Piracy’, 28 April 1870, FO 17/806, 140. Emphasis in original.

China.³⁶ The wreck and plunder of the German schooner *Anna* near Fuzhou in 1875, however, revived German calls for international action. ‘The recent repeated piratical attacks not only on German Ships’ but ‘the English ships “Spark” and “Canton”’, in the opinion of Georg Herbert zu Münster, German ambassador to Britain, warranted ‘joint remonstrances at Peking so that the Chinese Govt. may again be made to understand the perfect accord of the Treaty Powers in regard to the safety of their subjects and their shipping interests’.³⁷ While making diplomatic overtures, the Germans also sent SMS *Tenise* and *Vinosa* to Hong Kong to supplement ‘a squadron adapted to coöperate effectually with HM The Queen’s Ships in case of necessity’.³⁸ To facilitate this cooperation, the Admiralty forwarded Kellett’s 1871 memorandum on the limits of Royal Navy action against piracy, which was still then in force, as well as the China Station’s standing orders on the matter to its German counterpart.³⁹

Berlin tried to adjust naval orders regarding piracy according to those followed by ships of the Royal Navy’s China Station. The Admiralty approved of the measure and further recommended that:

the subject of captures of Pirates on shore or afloat within Chinese jurisdiction & of the Authorities to whom in such cases the Vessels seized & their crews should be delivered, should be considered on the present occasion in communication with the German and Chinese Governments, with a view to placing the whole matter on a more satisfactory footing, and rendering the instructions to British and German cruisers as uniform as circumstances permit.⁴⁰

Using rhetoric similar to that of treaty revision, the Admiralty saw Germany’s agitations in the wake of the *Anna* affair as an opportunity to change the orders limiting the actions of the Royal Navy in China. After discussions and adjustments, one significant difference between German and British naval instructions remained: German naval officers were permitted to land forces in

³⁶ Münster, to Derby, 24 January 1876, translator unknown, ADM 125/107, 161-162. Anne Reinhardt, *Navigating Semi-Colonialism: Shipping, Sovereignty, and Nation-Building in China, 1860-1937* (Cambridge, MA: Harvard University Press, 2018), 44. Robert Bickers, *The Scramble for China: Foreign Devils in the Qing Empire, 1832-1914* (London: Penguin Books, 2012), 231-235.

³⁷ Münster to Derby, 24 January 1876, translator unknown, ADM 125/107, 163.

³⁸ Münster to Derby, 7 March 1876, translator unknown, ADM 125/107, 177-178.

³⁹ Admiralty to Foreign Office, 1 May 1876, FO 17/807, 146.

⁴⁰ Admiralty to Foreign Office, 15 April 1878, FO 17/807, 254-255.

pursuit of pirates whereas British naval officers were forbidden to do so.⁴¹ In a manner reminiscent to invoking the most-favoured nation clause, British authorities capitalised on Berlin's permission for German warships to land forces in pursuit of pirates in order to revise the Royal Navy's orders. Whitehall decided that 'HM Govt would be glad to assimilate their instructions upon this point to those of the German Govt as it is manifest that if piracy is to be effectually subdued, pirates should be pursued and captured wherever they may take refuge' on the condition that such designs 'obtained the assent of the Chinese Govt'.⁴² The Royal Navy remained keen to take actions against pirates and indeed to reduce restrictions on such actions, but, by 1878 it did so not on its own initiative but that of Germany. Whereas Vice-Admiral Keppel had been at the forefront of rallying international naval opinion in disarming and registering junks in the late 1860s as measures to prevent piracy, German naval officers took the leading role in coordinating international cooperation against Chinese piracy in the 1870s.

New Piratical Schemes

German officials were not the only ones taking new initiatives in the China Seas after 1869. Chinese pirates also changed their *modus operandi*. The partial success of the measures adopted in the late 1860s, bolstered by the use of steam power on both sides, significantly increased the risk to those engaged in traditional modes of piracy. As not only pirate hunting but shipping in general transitioned to steam power, the act of successfully overhauling vessels and plundering them without being caught by faster, more powerfully armed ships, became increasingly difficult.⁴³ While piracy with stinkpots and swashbuckling continued, particularly against Chinese sailing vessels, the perpetrators had to develop different tactics against steamships,

⁴¹ Kellett's memorandum stated that 'Landing in pursuit of pirates within Chinese jurisdiction is strictly forbidden, notwithstanding that the request to land may proceed from the Mandarin embarked'. Kellett, 'General Memorandum, No. 49', 1 June 1871, ADM 125/16, 552. A copy of German instructions issued to SMS *Elisabeth* can be found in ADM 125/23, 599-605.

⁴² Pauncefoot to Münster, 16 May 1878, FO 17/807, 259.

⁴³ Wade to Granville, 2 May 1873, ADM 125/19, 210. In addition to building steam warships, the Qing state also became involved in steam shipping, establishing the China Merchants Steam Navigation Company in 1873, which became a major player in steam shipping in China. Reinhardt, *Navigating Semi-Colonialism*, 73-78.

which presented new challenges to Anglo-Qing collaborative imperial hydrarchy. One of the earliest examples of Chinese pirates successfully attacking a steamship was the piracy of the *Spark* in August 1874.

The *Spark*, an American steamer built in 1849, was one of the oldest steamships in the Canton River.⁴⁴ In its heyday, the vessel helped carry American sailors on expeditions with the British against pirates.⁴⁵ The Hong Kong, Canton, and Macao Steamboat Company purchased the *Spark* in 1870, converting the one-time pirate hunter into a passenger ferry between those cities. On 22 August 1874, as the *Spark* passed the Bogue forts en route to Macau from Canton, a group of passengers attacked the ship's crew, killing the American captain, George Brady. The pirates also wounded 'Mr. Mundy a tea-taster in Messrs. Deacon and Coy's employ', who was the only British subject onboard, as well as many of the crew of Europeans and 'Manilamen', some of whom jumped overboard. The pirates were in control of the *Spark* for five hours, robbing its passengers before leaving 'with their booty in a junk that was waiting for them'.⁴⁶ The passengers robbed included wealthy Chinese businessmen from Macau and the family of a Qing official from Xiangshan. The pirates, numbering about twenty, killed several of the passengers who resisted.⁴⁷ The plunder of the *Spark* by pirates disguised as passengers represented a new type of piracy and showed how Chinese pirates were adapting to the new reality of steam shipping in China.⁴⁸ Dealing with this novel mode of piracy would require a different form of cooperation between Britain and China.

Upon receiving news of the piracy of the *Spark*, Governor Januário Correia de Almeida of Macau sent the gunboat *Camões* to the site of the piracy. A Qing gunboat, upon arriving in Macau, followed the *Camões* in search for pirates.⁴⁹ From Hong Kong, HMS *Esk* set out for

⁴⁴ A.D. Blue, 'Piracy on the China Coast', *Journal of the Royal Asiatic Society, Hong Kong Branch* 5 (1965), 77.

⁴⁵ Cracroft to Massey, 1 April 1851, ADM 125/145, 149-150.

⁴⁶ Dean to Austin, 24 August 1874, CO 129/167, 677-678.

⁴⁷ *O Boletim do Governo da Provincia de Macao, Timor, e Solor*, vol. 20, no. 34, 22 August 1874, 151.

⁴⁸ Blue, 'Piracy', 77.

⁴⁹ Januário to Kennedy, 24 August 1874, CO 129/167, 679-680.

Canton and Macau and to search the area around the Bogue forts.⁵⁰ With Qing, Portuguese, and British naval forces ‘promptly dispatched’ to search for the pirates and ‘large rewards’ offered for information, Kennedy commented that the ‘Chinese, Portuguese, and British Governments are equally interested in bringing the culprits to Justice’.⁵¹ Unlike in previous cases of piracy, however, gunboats could not simply overwhelm the pirates with superior speed and firepower. The pirates in this instance took over an American-built and -captained British steamship from within and then escaped to shore. British and Qing officials would have to make concerted efforts to seek out the pirates and bring them to justice. In such efforts, naval forces could help transport police and other personnel, but could not alone defeat the pirates.

In September 1874, one of the pirates of the *Spark* was captured in Hong Kong and committed for trial before the colony’s Supreme Court. By that time, Qing officials had captured six alleged pirates involved in the affair.⁵² The pirate captured in Hong Kong was tried, convicted, and sentenced to be hanged.⁵³ Later that year, with the assistance of Qing officials who helped secure witnesses, police in Hong Kong captured ‘Chun-A-Yuk’ and ‘Kwok-A-Tsoi’, who allegedly participated in the piracy of the *Spark*. Citing various colonial and imperial laws, colonial authorities decided to refuse a Qing request for the suspects’ extradition, concluding that Chun and Kwok were under the concurrent jurisdiction of Qing law as criminals in Chinese waters and Admiralty law at Hong Kong as pirates of a British vessel.⁵⁴ Negotiations about jurisdiction over piracy continued to be a means of exposing Qing officials to international and maritime law.

According to the Kwok-a-sing case of 1873, cited in much of the discussion over the *Spark* pirates, Hong Kong’s courts, through universal jurisdiction over piracy in international law,

⁵⁰ Deane to Austin, 24 August 1874, CO 129/167, 679. Januário to Kennedy, 24 August 1874, CO 129/167, 680.

⁵¹ Kennedy to Carnarvon, 26 August 1874, CO 129/167, 674.

⁵² Kennedy to Carnarvon, 10 September 1874, CO 129/168, 31.

⁵³ Kennedy to Carnarvon, 3 October 1874, CO 129/168, 118.

⁵⁴ Bramston to Austin, 31 January 1875, CO 129/70, 100-101. See also ‘Report of Mr. Russell, Police Magistrate, on rendition of 2 Chinese concerned in the “Spark” piracy’, 20 February 1875, CO 129/170, 181-191. I have been unable to find Chun and Kwok’s names in Chinese.

could pass judgement even in a case involving two foreign parties.⁵⁵ The Hong Kong attorney general decided that in the case of the *Spark* piracy, even though it took place in Chinese waters, British authorities had Admiralty jurisdiction as the *Spark* was a British ship. Colonial officials decided to commit Chun and Kwok to trial before the Supreme Court of Hong Kong, but Acting Governor-General Zhang Zhaodong refused to send witnesses, and Chun and Kwok were ultimately discharged without trial.⁵⁶ According to Robertson, Zhang claimed that he could not ensure the witnesses he sent to Chun and Kwok's trial before a colonial magistrate in Hong Kong would go there again. Zhang's unwillingness to cooperate may have stemmed from the fact that he remained firm in 'his opinion that the present is a case for rendition under the Provisions of the Treaty' of Tientsin.⁵⁷ Though it got off to an inauspicious start, cooperation between Qing and British justice systems rather than naval forces would be a better means of dealing with the new *modus operandi* developed by the *Spark* pirates.⁵⁸

While some Chinese pirates developed new methods for plundering steamships, others continued to engage in more traditional modes of piracy in Guangdong in defiance of prohibition regimes and gunboats. In 1881, for example, Dapeng Colonel Lai Zhenbian forwarded a report from the owner of the *Hing Lung* (*Xinglong*), a 'Pa Lung' junk, stating that the vessel had been attacked by 'a piratical craft of the ha kau clipper built style' near 'Leung Shun Wan [Liangchuanwan, High Island]'. On inquiry, Lai found that the police in Hong Kong had captured three of the pirates and requested their rendition to Kowloon. He noted that 'the crime

⁵⁵ Kwok-a-sing led a mutiny among Chinese coolies on board the French ship *Nouvelle Pénélope* in 1870. British jurists refused to extradite him by accusing him of piracy *jure gentium*, triable in a court with Admiralty jurisdiction. See Ivan Lee, 'British Extradition Practice in Early Colonial Hong Kong', *law&history* 6, no. 1 (2019), 108-113 and Alfred Rubin, *The Law of Piracy* (Newport, RI: Naval War College Press, 1988), 240-242.

⁵⁶ Bramston to Austin, 31 January 1875, CO 129/170, 94-95, 99-100. Discussions of Hong Kong's jurisdiction over piracy continued into the late-nineteenth century. See Edward O'Malley, 'Notes on Piracy Jure Gentium, Jurisdiction of the Admiral', 10 October 1881 in Edward O'Malley Papers, [FCO Historical Collection], FOL. DS796/H757, vol. 2: 'International and Foreign Affairs to Sep. 82', Foyle Special Collections Library, King's College London (KCL), UK.

⁵⁷ Robertson to Austin, 20 January 1875, CO 129/70, 114.

⁵⁸ The British refusal to extradite Kwok-a-sing, Chun-A-Yuk, and Kwok-A-Tsoi did not seem to deter Qing officials from requesting the rendition of pirates and other criminals from Hong Kong. Hong Kong magistrates received at least eight extradition requests in 1877. Figure compiled from Correspondence Relative to the Magistrate's Court, Police and Prisons (HKRS 101)/1-4-2, Hong Kong Public Record Office (HKPRO), Hong Kong.

committed by these pirates is one of extreme wickedness and cannot conveniently be dealt with leniently'.⁵⁹ Despite a significant decline after 1869, piracy, even of the traditional variety, remained problematic in the waters of Hong Kong.⁶⁰

Piracy persisted elsewhere in Guangdong as well. In June 1886, George Brown, the acting British Consul at Haikou on Hainan Island, reported that 'a native built boat' belonging to 'Messrs. O'Toole & Co, a British firm of this port' was captured by 'three pirate junks, who cut the hawser and sailed for the mainland with the boat'. In addition to reporting the incident to the local Qing authorities and Guangdong and Guangxi Governor-General Zhang Zhidong, he decided to notify Commodore George Digby Morant, the senior naval officer at Hong Kong, of 'the widespread prevalence of piracy on the coasts of the Kwangtung province'.⁶¹ Indeed, piracy had become so problematic in Guangdong that Zhang requested the right to perform '*summary execution of criminals*, in view of *the daily increasing prevalence of crimes of violence in the Canton Province*'.⁶² As discussed in the introduction, executions in Qing China usually required approval from the emperor. In times of crisis, such as that caused by the *ladrones* at the beginning of the century, provincial officials could request the authority to carry out expedited executions under a banner of royal mandate.⁶³ Zhang's request gives credence to Brown's observation on the increased prevalence of piracy in Guangdong. When Commodore Morant reported this to Vice-Admiral Richard Vesey Hamilton, however, the commander-in-chief of the China Station commented that 'nothing has been heard by the Naval Authorities of this widespread prevalence of piracy'.⁶⁴ By this time, it seems, the Royal Navy had distanced itself from the Anglo-Qing

⁵⁹ Lai to Tonnochy, 6 September 1881, trans. Eitel, HKRS 101/1-4-5, HKPRO. For pictorial sketches of a Ha-kau and Pa-lung junk see CO 129/ 157, 102-103. On Lai Zhenbian, see Xiao Guojian [Anthony Siu], *Jiulong chengzhai shilunji* [Studies on the Kowloon Walled City] (Hong Kong: Hin Chiu Institute, 1987), 57-59.

⁶⁰ The frequent mentions of piracy in the papers of Edward O'Malley, the Hong Kong attorney general, 1880-1890 (FCO Historical Collection, FOL. DS796.H757 OMA, 8 volumes, KCL) and in extant correspondence of the Hong Kong magistrates at the Hong Kong Public Records Office (HKRS 101) suggests Lai's report was not exceptional.

⁶¹ Brown to Morant, 28 June 1886, ADM 125/32, 344-345.

⁶² George Brown, 'Condensed Translation of *Peking Gazette*', 17 March 1886, ADM 125/32, 353. Emphasis in original.

⁶³ Robert J. Antony, *Unruly People: Crime, Community, and State in Late Imperial South China* (Hong Kong: Hong Kong University Press, 2016). 247.

⁶⁴ Minute by Hamilton in Morant to Hamilton, 25 June 1885, ADM 125/32, 348.

collaborative imperial hierarchy over Chinese pirates. Brown's reference to 'the numerous complaints of Piracies committed on junks bound to or from the Colony of Hongkong, which are constantly being submitted to His Excellency the Viceroy at Canton, on informations [sic] laid before the Captain Superintendent of Police' shows that Hong Kong's police and colonial officials, rather than the Royal Navy were taking the initiative in cooperating with Qing agents in suppressing piracy.⁶⁵ Though traditional Chinese piracy persisted, by the late-nineteenth century, it was no longer a pressing concern of the Royal Navy.

The next significant case of piracy to appear in the Royal Navy's China Station records is that of the *Namoa*, a steamship belonging to the Hong Kong merchant Douglas Lapraik, which followed the model developed by the pirates of the *Spark*. On 10 December 1890, while the *Namoa* was sailing from Hong Kong to Swatow, a group of pirates armed with revolvers and 'stink bags' who had boarded disguised as passengers, rose up and took over the ship about 45 miles north of Hong Kong. Three people were killed and six wounded in the attack. In response, Commodore Edmund J. Church, senior naval officer at Hong Kong, proposed to send HMS *Linnet* to search for pirates.⁶⁶ On the suggestion of colonial officials at Hong Kong, 'Mr. McLeavy Brown the Commissioner of Customs for the Kowloon District' offered to send 'Captain Stewart [sic? Name given as 'Stewart' elsewhere] of the Chinese Revenue Cruiser "Kaipan"' who was 'intimately acquainted with the coast where the pirates may have landed' and 'conversant with the Chinese language' to accompany the *Linnet*.⁶⁷ The *Linnet*, with Captain Stewart onboard, sailed to Harlem Bay, where Commander Archibald Tisdale ordered Lieutenant Amherst C. Pearson to 'land in company with Detective Sergeant McIver and

⁶⁵ Brown to Morant, 3 August 1886, ADM 125/32, 350. The Hong Kong Marine Police's acquisition of steam launches in the 1880s allowed it to clear Victoria Harbour of pirates. Like the Guangdong steam squadron, the steam launches of the marine police enabled the force to take more effective action against pirates. Iain Ward, *Sui Geng: The Hong Kong Marine Police, 1841-1950* (Hong Kong: Hong Kong University Press, 1991), 33-34.

⁶⁶ A. Gordon, 'Special Report of Piracy, No. 1', 11 December 1890, ADM 125/37, 7-8. Church to Fleming, 11 December 1890, ADM 125/37, 2-4.

⁶⁷ Fleming to Church, 11 December 1890, ADM 125/37, 6. I have been unable to find the Chinese name of the *Kaipan*. The Imperial Maritime Customs established a station at Kowloon in 1887. Robert Nield, *China's Foreign Places: The Foreign Presence in China in the Treaty Port Era* (Hong Kong: Hong Kong University Press, 2015), 148.

Ching-On, Chinese detective' of the Hong Kong Police to meet with the local 'Military Mandarin', who promised to make inquiries into the matter. In the meantime, 'Captain Stewart's Interpreter' and the Hong Kong detectives gathered information from villagers in the area, who professed ignorance of the *Namoa* piracy. Despite the lack of information gained, Tisdale nonetheless reported that Captain Stewart's advice and assistance was 'most useful' and that 'Detective Sergeant McIver as well as the Chinese Detective did all that was required of them in a very satisfactory manner'.⁶⁸

As cooperation with Kowloon Customs officials proved ineffective in this instance, the British consul at Canton proposed that 'some intelligent officer and native detectives should be sent in a gun-boat to the scene of the attack (in the neighbourhood of Bias Bay) and stay there until they should have gained some information'. He believed British officials had to take the initiative and that 'no active measures will be taken' by Qing officials 'unless it is seen that an active interest is being taken in the matter by this Government'.⁶⁹ HMS *Linnet* and *Firebrand* thus set out in different directions to search for the *Namoa* pirates, but even with the cooperation of Huang Chaoqun of the Qing gunboat *Guangsi* and Xu Guitian, a military officer at Pinghai, neither achieved much success.⁷⁰ Vice-Admiral Salmon reported to the Admiralty that the attack on the *Namoa* was 'a serious case of Piracy' and that 'severe strictures have been passed upon the Naval Authorities for not at once sending vessels to look for the Pirates'. He nonetheless pointed out that 'no precautionary measures within the power of the Navy could prevent a similar occurrence' and that the blame for the piracy should be placed on 'the Hongkong Police, who permitted an armed and organized band of about 40 men, many of whom must have been known to them, to embark in a vessel' at Hong Kong.⁷¹ Against the type of piracy used in the *Spark* and *Namoa* cases, warships were relatively powerless. Dealing with

⁶⁸ Tisdale to Church, 13 December 1890, ADM 125/37, 15-19. I have been unable to find the Chinese name of Ching-On.

⁶⁹ Fleming to Salmon, 16 December 1890, ADM 125/37, 20-21.

⁷⁰ See Tisdale to Salmon, 19 December 1890, ADM 125/37, 24-25 and Denison to Salmon, 19 December 1890, ADM 125/37, 31-35. The cards of the mandarins can be found in ADM 125/37, 37.

⁷¹ Salmon to Admiralty, 8 January 1891, ADM 125/37, 41-43.

pirates of this type was more a matter for police authorities. Indeed, suspects in the piracy of the *Namoa* were arrested by the colonial police at Macau and by Qing authorities at Canton. To help placate British authorities, some of the pirates were executed in the Kowloon Walled City on 17 April and 11 May 1891.⁷² Kowloon remained important to collaborative imperial hydrarchy in the late nineteenth century, but aside from exceptional cases of piracy such as that of the *Namoa*, the Royal Navy's focus, and indeed that of the British Hong Kong and China, shifted elsewhere.

New Concerns

Although, as this chapter demonstrates, piracy persisted in Guangdong after 1869, it became less of a priority and source of concern for British authorities in China. Royal Navy involvement in suppressing it diminished, and the Admiralty decided to reduce the size of the China Station in 1869.⁷³ By 1872, the commander-in-chief of the China Station decided that the 'North China Division' of the station, covering the ports of Shanghai, Ningbo, Zhenjiang, Jiujiang, Hankou, Chefoo (Yantai), Niuzhuang, and Tianjin, 'requires the largest number of vessels', eclipsing the importance of the southern division, despite the persistence of piracy in there.⁷⁴ Even the emergence of a new form of piracy capable of threatening foreign steamships did not seem to bother Britons on the China coast. The same year as the piracy of the *Spark*, the mercantile community at Hong Kong was more concerned about the 'Blockade of Hong Kong' by Qing gunboats. According to the Hong Kong Chamber of Commerce, the Guangdong steam squadron intended for suppressing piracy and policing the coast instead disrupted the junk trade

⁷² John Kleinen, 'Maritime Piracy through a Barbarian Lens: Punishment and Representation (The S.S. *Namoa* Hijack Case [1890-91])', in *Pirates, Ports, and Coasts in Asia: Historical and Contemporary Perspectives*, ed. John Kleinen and Manon Osseweijer (Singapore: National University of Singapore Institute of Southeast Asian Studies, 2010), 112-114. The 17 April execution was captured in a now infamous photo with British onlookers pictured next to the decapitated pirates.

⁷³ Romaine to Keppel, 6 February 1869, ADM 125/14, 609-611.

⁷⁴ Shadwell to Admiralty, 16 April 1872, ADM 125/21, 6. The South China Division had responsibility for Hong Kong, Amoy, Swatow, Fuzhou, and Taiwan.

at Hong Kong by collecting customs dues just beyond the boundaries of Victoria Harbour.⁷⁵ Two years earlier, Governor Kennedy had requested Royal Navy assistance against pirates as well as Qing customs agents; by 1874 the latter appeared more menacing to the Hong Kong community.⁷⁶ As Qing customs cruisers, unlike pirates, acted on behalf of a sovereign entity, the matter was better dealt with by diplomats and lawyers than gunboats.⁷⁷ The menace piracy posed to Hong Kong and other British interests in China would be overshadowed by other threats as well.

Popular Unrest

Elsewhere in Guangdong, the threat to British interests came less from pirates than from the general Chinese populace at the treaty ports. In Swatow, multiple joint expeditions and the Royal Navy raid on Oudingxiang, may have deterred pirates, but the threat of popular upheaval remained imminent. The consul there reported that ‘it has long been a favorite project of the turbulent to raise the standard of revolt as their rivals the Taiping did before them’. He further suggested that ‘moral support, and perhaps a few shell [sic] from the gunboat, would enable the rising to be crushed in the bud’.⁷⁸ By September 1870, the British minister at Beijing admitted that ‘a very considerable apprehension’ existed at many of the treaty ports. This apprehension, however, came not from pirates but popular uprisings by the Chinese against the foreign settlements. To allay such fears, Wade suggested to Vice-Admiral Kellett that he

authorise all Commanders of Her Majesty’s Vessels lying in the Treaty ports to inform Her Majesty’s Consuls that, if satisfied that the quarter inhabited by British subjects is in danger of being attacked, they are prepared at once to land a force for its protection, and to act against any mob or organised body invading it, either singly, or, if Vessels of

⁷⁵ See *The Blockade of Hong Kong by the Hoppo, or Farmer in Canton of Customs Duties Levied upon Chinese Vessels: The Proceedings at a Public Meeting held at the City Hall, Hong Kong, on the 14th September, 1874* (London: Kent and Co., 1874).

⁷⁶ See Kennedy to Shortt, 8 August 1872, ADM 125/19, 147-148.

⁷⁷ See O’Malley, ‘Hong Kong Blockade Question – Proposed Basis of Settlement’, in FOL.DS796/H757 OMA, vol. 8: Hong Kong Despatches, KCL. Henry Sze Hang Choi, *The Remarkable Hybrid Maritime World of Hong Kong and the West River Region in the Late Qing Period* (Leiden: Brill, 2017), 106.

⁷⁸ Alabaster to Alcock, 24 June 1869, ADM 125/15, 1112-1114.

War belonging to other powers be present, in concert with them, so long as they are engaged in purely defensive operations.⁷⁹

Though prohibited from landing forces in pursuit of pirates, the Royal Navy could still engage in such violations of Qing territorial sovereignty to protect British subjects in the treaty ports. By 1883, when piracy had largely fallen out of the China Station records, the Admiralty was recommending that the commander-in-chief draw up contingency plans ‘in the event of it being necessary to give protection to merchants at the various treaty ports if a Chinese rising should occur’.⁸⁰ Anti-foreign activity was now seen as a greater threat to British trade in China, which the Royal Navy had the task of protecting, than piracy.

The fear of a Chinese uprising drove the Foreign Office to instruct the British ambassadors in Berlin and Washington to request that German and American naval commanders in China devise plans for protecting the foreign communities at the treaty ports. Berlin accordingly ordered the German naval commander to concert with the Royal Navy’s Vice-Admiral George Willes on ‘measures for protection of British and German Subjects against possible outbreak of population’.⁸¹ By December 1883, the Foreign Office had also requested that Italy, Russia, Portugal, and Japan instruct their naval commanders in China to coordinate with Willes for the ‘protection of neutral subjects’.⁸² In a similar manner to how Keppel had organised the cooperation of his brother admirals from various countries to support the registration and disarmament of Chinese junks, Willes had the task of devising an international system for the protection of the foreign communities at the treaty ports with the naval commanders of other countries. Britain may have let Germany take the lead in arranging joint action between different naval forces against piracy, but it remained capable of taking the naval initiative for

⁷⁹ Wade to Kellett, 29 September 1870, ADM 125/15, 34. Such apprehension was not unfounded, as the Tianjin Massacre the following year would reveal.

⁸⁰ Admiralty to Willes, 22 November 1883, ADM 125/29, 3.

⁸¹ Admiralty to Willes, 30 November 1883, ADM 125/29, 7.

⁸² Admiralty to Willes, 14 December 1883, ADM 125/29, 15. The issue of neutrals became increasingly important as France’s imperial activity in Indo-China (Vietnam) collided with Qing suzerainty in the region. This tension resulted in the Sino-French War (1884-1885). The French described Liu Yongfu and the Black Flags, allies of the Nguyen Vietnam and later the Qing, as pirates. See Bradley Camp Davis, *Imperial Bandits: Outlaws and Rebels in the China-Vietnam Borderlands* (Seattle: University of Washington Press, 2017), 85-120.

more important matters, such as protecting the treaty ports against Chinese unrest. The Foreign Office believed that piracy in China was 'almost extinct, if not quite so' as early as 1877, whereas the riots at Shamian in Canton in September 1883, in which a Chinese mob attacked and looted various foreign buildings on the island, showed that Chinese agitation was a real and credible threat.⁸³ The Royal Navy's priority in China had accordingly changed to protecting British interests against popular upheaval rather than pirates.

Despite arrangements for naval cooperation, commanders-in-chief of the China Station acknowledged that the burden of protecting British and foreign interests fell disproportionately on the Royal Navy. By 1886, Vice-Admiral Hamilton was complaining that 'demands from Consuls out here for men of war are frequent' and often spurious as the 'Chinese Authorities have proved quite equal to dealing with their own people'.⁸⁴ He further pointed out that 'everyone trading in China is as a matter of fact protected by the English; the Germans have next to ourselves the largest trade out here; one German Gunboat now represents German interests in China'. He considered the plans for cooperation among the maritime powers to protect each other's subjects in China a 'one ended arrangement', believing that the size of the Royal Navy in China allowed other countries to avoid 'the necessity of keeping, or sending, a Naval Force out here'. To lessen British naval burdens in China, Hamilton proposed abandoning 'the old plan of keeping one [warship] permanently stationed at a Port, a sort of standing menace to the Chinese, not required under the altered state of its Government, since the suppression of the Taiping rebellion'. He accordingly decided not to keep a Royal Navy ship at Canton as the Americans had a naval vessel at Whampoa.⁸⁵ Overburdened with naval responsibilities, Hamilton was happy to let other countries' naval forces protect the foreign community at Canton and elsewhere.

⁸³ Minute by W.H.L, 30 January 1877, FO 17/807, 190. On the Shamian riots, see Nield, *China's Foreign Places*, 44 and 'Extract from the Japan Gazette of Sept. 20 1883 relating to the riots at Canton, China, Sept. 10, 1883' in ADM 125/33, 254-260.

⁸⁴ Hamilton to Admiralty, 17 April 1886, ADM 125/30, 22.

⁸⁵ Hamilton to Admiralty, ADM 125/30, 28, 32-33.

In October 1887, Chaloner Alabaster, now the British consul at Canton, reported 'considerable excitement' by Chinese shopkeepers in response to a reclamation project by the Imperial Maritime Customs, which threatened to become a 'serious disturbance'. He thus requested 'the presence of a man of war' from Commodore William H. Maxwell, senior naval officer at Hong Kong.⁸⁶ Rather than send one of Her Majesty's ships, Maxwell replied that the 'Imperial German Gun Vessel "Iltis"' had set out from Hong Kong for Canton.⁸⁷ Alabaster believed that the presence of SMS *Iltis* 'contributed a good deal to the restoration of a feeling of security among foreigners and those connected with them'. He also noted, however, that 'although the excitement is not entirely allayed, it shews signs of abatement, the Viceroy having ordered a Commission to enquire into the case' and stationed troops in the vicinity.⁸⁸ Between friendly foreign warships and efforts by Qing authorities, the Royal Navy was relieved of some of its duties protecting the treaty ports from Chinese unrest. This allowed its commanders to focus on other concerns, such as the strategic position and defence of Hong Kong.

The Defence of Hong Kong

From the 1880s onwards, Britain's primacy in China was challenged by a unified Germany seeking to make its economic and military might felt abroad, France emerging victorious in the Sino-French War (1884-1885), Russia, and Japan.⁸⁹ The threat from the naval forces of these powers far outweighed that from Chinese pirates. Hong Kong played a key strategic role in hypothetical situations of the outbreak of war. As early as 1876, Vice-Admiral Alfred Philipps Ryder reported that 'the security of our Coal Depôts from destruction by an Enemy is all important' and

owing to our having most unfortunately no Territory North of Hong Kong, our Coal Depôts there, viz, in China and Japan are indefensible and according to the Laws of Neutrality would cease to be available in any war in which we were belligerents if the nation on whose Territory the Coal Depôt is situated, were a Neutral.⁹⁰

⁸⁶ Alabaster to Maxwell, 31 October 1887, ADM 125/32, 334-335.

⁸⁷ Maxwell to Alabaster, 1 November 1887, ADM 125/32, 340.

⁸⁸ Alabaster to Maxwell, 1 November 1887, ADM 125/32, 341-342.

⁸⁹ Chi Man Kwong and Yiu Lun Tsoi, *Eastern Fortress: A Military History of Hong Kong, 1840-1970* (Hong Kong: University of Hong Kong Press, 2014), 33.

⁹⁰ Ryder to Admiralty, 11 February 1876, ADM 125/22, Part II, 1-2.

Hong Kong was important as the only British territory in East Asia from which coal and other munitions of war could be obtained in the event of an outbreak of war with another Western power. Ryder's comment that Britain 'unfortunately' lacked any other territory north of Hong Kong hinted at a future push for British expansion in China.

Vice-Admiral Willes, before drawing up plans for coordination with other naval forces for the protection of foreign communities at the treaty ports, contributed to plans for defending Hong Kong against those very forces. He believed that 'the Harbor of Victoria or Hongkong Road, which is teeming with contraband of war, i.e. Coal stores, steamers, docks, and Building ships, must like the harbour at Singapore be defended at all hazards', and he considered the defence of Hong Kong 'a much more serious matter'.⁹¹ A decade later, Kowloon, where 'there is & must be always a considerable and valuable depot of naval Stores notably Coal, Torpedoes & Torpedo boats', also factored into strategic thinking about the defence of Hong Kong. Whereas Hong Kong island could be protected by ships of the Royal Navy, Kowloon was contiguous with the Qing Empire, and the fact that 'the frontier is practically unguarded except for customs purposes' caused Vice-Admiral Nowell Salmon to worry that it 'might easily be rushed'.⁹² Three years later, Vice-Admiral Edmund Fremantle, lamented that 'the possession of only half a Channel and the inability to erect batteries on both sides of it must materially hamper the defence' of Hong Kong, and thus suggested expanding the amount of territory under British control on the mainland side of Victoria Harbour. He further added that 'the possession of the islands of the Hong Kong Group would be of great advantage in many ways to our expanding commerce'.⁹³

Eventually, British officials in China gave in to a combination of defence needs, particularly for Kowloon, anxieties raised by the imperial activities of other European powers and Japan,

⁹¹ Willes to Admiralty, 2 May 1881, ADM 125/27, 178.

⁹² Nowell Salmon, 'Memorandum on the Defence of Hong Kong and Singapore', 31 July 1891, ADM 125/41, 1d.

⁹³ Fremantle to Admiralty, 17 November 1894, ADM 125/45, 422

and pressure from business interests, and expanded the colony of Hong Kong.⁹⁴ They accomplished this through the Hong Kong Extension Convention, signed with the Qing in 1898. The treaty deemed that ‘an extension of Hongkong territory is necessary for the proper defence and protection of the Colony’. Accordingly, Qing signatories agreed to lease land and islands adjacent to Hong Kong and Kowloon for ninety-nine years from 1 July 1898. Notably, the lease stipulated that ‘within the city of Kowloon the Chinese officials now stationed there shall continue to exercise jurisdiction except so far as may be inconsistent with the military requirements for the defence of Hong Kong’. The Kowloon authorities would also ‘be allowed as heretofore to use the road from Kowloon to Hsinan [Xin’an]’, and ‘the existing landing place near Kowloon city’ would continue to be ‘reserved for the convenience of Chinese men-of-war, merchant and passenger vessels’. Furthermore, while the lease included ‘the waters of Mirs Bay and Deep Bay’, Qing warships would ‘retain the right to use those waters’.⁹⁵

Unlike the colonisation of Kowloon, the expansion of Hong Kong into what would become known as the New Territories was not driven by concerns about pirates. Vice-Admiral Fremantle’s comments in 1894 about the need to control both sides of the channels approaching Victoria Harbour as well as neighbouring islands, however, suggest that maritime control helped motivate the expansion. That the Kowloon authorities were permitted to remain in the Kowloon Walled City and retain connections to the magistrate at Xin’an and control of the Longjin jetty reveals the long shadow of Hong Kong-Kowloon cooperation in suppressing piracy, which still influenced British thinking about Kowloon.⁹⁶ Continued Qing access to Mirs and Deep Bay, traditional haunts of pirates now ceded to British control, would also facilitate continued

⁹⁴ Kwong and Tsoi, *Eastern Fortress*, 32-34, 49. John M. Carroll, *A Concise History of Hong Kong* (Hong Kong: University of Hong Kong Press, 2013; originally published Rowman & Littlefield, 2007), 67-69. G.B. Endacott, *A History of Hong Kong*, revised edition (Hong Kong: Oxford University Press, 1973), 260-262.

⁹⁵ ‘Convention for the Extension of Hong Kong’, Imperial Maritime Customs, *Treaties, Conventions, etc., Between China and Foreign States*, vol. 1 (Shanghai: Statistical Department of the Inspectorate General of Customs, 1908), 347-348. In accordance with this treaty, Britain returned the leased territories along with the rest of the colony of Hong Kong to the Qing Empire’s successor, the People’s Republic of China, on 1 July 1997.

⁹⁶ The Longjin jetty, also known as the Longjin bridge, was completed in 1875 and could accommodate large vessels, including steamships. Lu Jin, *Jiulong chengzhai shihua* [Historical Discussions of the Kowloon Walled City] (Hong Kong: Joint Publishing, 1988), 70-71.

cooperation against pirates. Despite insistence on control over Victoria Harbour and anxieties about the activities of Qing customs cruisers just beyond its boundaries, British authorities permitted Qing warships to visit Kowloon and the waters of the New Territories. The many changes and developments in Chinese piracy and British and Qing responses to it between 1869 and 1898 do not seem to have changed thinking on the opposite sides of Victoria Harbour. From 1842 until 1898, Hong Kong and Kowloon continuously cooperated against pirates. Piracy and its suppression persisted in motivating an Anglo-Qing collaborative imperial hydrarchy despite wars, rebellions, and other drastic changes in China.

Kicked Out of Kowloon, 1899

Though British and Qing authorities agreed in the Hong Kong Extension Convention that the Hong Kong-Kowloon connection would persist, this system of cooperation would also succumb to the changes on the China coast at the turn of the twentieth century. Britain did not immediately occupy the New Territories after signing the Convention. Instead, Colonial Secretary John Stewart Lockhart would inspect the region before negotiating its boundaries with Nanhai Magistrate Wang Cunshan. British and Qing officials came to an agreement on the limits of the cession in March 1899. As most of this territory covered the jurisdiction of the Kowloon deputy magistrate, his office relocated to Xin'an while most military personnel in the Kowloon Walled City transferred to the fort at Dapeng. Wang Cunshan nonetheless ordered that the colonel of Dapeng, Fang Yan, remain in the Kowloon Walled City. From Kowloon, Fang Yan helped facilitate the transfer of authority over the various islands in the cession from the Qing state to the colonial government of Hong Kong.⁹⁷ Initially, the colonel of Dapeng, as he had since 1842, continued to play an important role in collaborative imperial hydrarchy.

⁹⁷ Patrick H. Hase, *The Six-Day War of 1899: Hong Kong in the Age of Imperialism* (Hong Kong: Hong Kong University Press, 2008), 44. Lu Jin, *Jiulong chengzhai shihua* [Historical Discussion of the Kowloon Walled City] (Hong Kong: Joint Publishing, 1988), 86-88. G.B. Endacott, *A History of Hong Kong*, revised edition (Hong Kong: Oxford University Press, 1973), 262-263.

Fang Yan proved less capable of exercising control over the largely autonomous clans of the various villages in the mainland territories of the cession. Unlike the sparse and largely transient populations of Hong Kong Island and Kowloon at the time of British colonisation, the villagers of the New Territories were organised and willing to resist British rule.⁹⁸ Poor communication between the Hong Kong government and the various villages of the New Territories between the signing of the convention and Britain's official occupation on 16 April 1899 allowed rumours and fearmongering to spread. Additionally, xenophobia and worries about British atrocities and interference in the lives and livelihoods of the villagers, galvanised them against their new rulers. On 14 April 1899, armed villagers mobilised by clans principally from Yuen Long, where British and Qing forces had launched a joint expedition against pirates in 1864, attacked the matsheds that British officials had erected for the flag-raising ceremony marking the official establishment of colonial control over the New Territories. This marked the start of a clash between villagers in the New Territories and British forces known as the 'Six-Day War' (14-19 April 1899). Though British authorities had initially intended for the flag-raising ceremony to take place on 17 April, they moved it forward a day to justify military retribution as suppressing unrest in a British territory rather than as intervening in China. The Royal Navy played a minor role in this short conflict. HMS *Fame*, *Brisk*, *Humber*, *Peacock*, and *Hermione* participated by firing on fortifications, ferrying troops and supplies, and landing men to help transport provisions and munitions to British land forces.⁹⁹

Whereas the principal Chinese threat to Hong Kong came from the pirates in the colony's waters in the mid-nineteenth century, by 1899 the seagoing population of the region had largely submitted to the maritime control exercised between Hong Kong and Kowloon, as evidenced by the relative ease with which British authorities established control over the islands ceded in

⁹⁸ John M. Carroll, *A Concise History of Hong Kong* (Hong Kong: University of Hong Kong Press, 2013; originally published Rowman & Littlefield, 2007), 69. On the society of the New Territories, see also James Hayes, *The Great Difference: Hong Kong's New Territories and its People, 1898-2004* (Hong Kong: Hong Kong University Press, 2012, originally published 2007), 1-16.

⁹⁹ Hase, *Six-Day War*, 63-96. See also Chi Man Kwong and Yiu Lun Tsoi, *Eastern Fortress: A Military History of Hong Kong, 1840-1970* (Hong Kong: Hong Kong University Press, 2014), 50-52

the Convention for the Extension of Hong Kong. Colonial officials were now more concerned about Chinese on land than at sea. Flag-raising ceremonies symbolising the transition to British rule occurred at Tai Po (Dabu) on the mainland portion of the New Territories and outside the Kowloon Walled City but not on any of the islands.¹⁰⁰ With the hydrarchy surrounding Hong Kong subdued, colonial officials were apparently more concerned with proclaiming their control to New Territories villagers and Qing authorities than to islanders and boat-dwellers.

British authorities in Hong Kong suspected that Qing officials in Canton and Kowloon were complicit in the New Territories villagers' uprising during the Six-Day War, particularly as some of the insurgents had military uniforms and flags similar to those used by Qing forces. These turned out to be militia raised by village authorities.¹⁰¹ In fact, the Dapeng colonel and the Canton authorities initially sought to assist colonial officials in maintaining order over the New Territories, with Canton sending six hundred troops to reinforce the garrison of the Kowloon Walled City, the last enclave of Qing authority in the Hong Kong region. The Hong Kong authorities, suspicious of Qing motives, protested, and the garrison in the walled city was reduced to two hundred while Fang Yan withdrew to the Bogue forts.¹⁰² On 16 May 1899, as retribution for the Qing authorities' assumed treachery in supporting insurgents, British forces occupied the Kowloon Walled City and evicted the remaining Qing forces there. Qing officials condemned this action but never sent any representatives to reoccupy the fort. China continued to claim jurisdiction over the fort well into the twentieth century. As no Chinese officials ever returned to the Kowloon Walled City, however, it became an autonomous enclave in a British territory where the Chinese could not, and the British would not, exercise authority. What British and Qing officials had intended to be an outpost of Qing authority to help control crime in Hong Kong instead became a political vacuum ultimately filled by the Triads.¹⁰³

¹⁰⁰ Hase, *Six-Day War*, 73.

¹⁰¹ Ibid, 70-71.

¹⁰² Lu, *Jiulong*, 88. Elizabeth Sinn, 'Kowloon Walled City: Its Origin and Early History', *Journal of the Hong Kong Branch of the Royal Asiatic Society* 27 (1987), 37.

¹⁰³ Sinn, 'Kowloon', 37-38. Carroll, *Concise History*, 71.

Though British and Qing officials had hoped to continue the system of collaborative imperial hydrarchy between Hong Kong and Kowloon which had existed since 1842, developments in the late nineteenth century overshadowed its importance. Piracy persisted in the late nineteenth century and onwards, and British and Qing authorities continued to cooperate in suppressing it, particularly in the West River.¹⁰⁴ The changes discussed in this and the previous chapter, however, had substantially reduced the frequency of Chinese piracy and diminished the need for Britain and China to rely on each other and cooperate against it. China's defeat in the first Sino-Japanese War (1894-1895) and the subsequent Japanese colonisation of Taiwan set off a 'scramble' for further concession by foreign powers in China. This context, and the need to defend the colony of Hong Kong, motivated the British colonisation of the New Territories more than any desire to suppress piracy.¹⁰⁵ When British officials perceived that the arrangements for a continued cooperation with Kowloon threatened their control of Hong Kong they did not hesitate to remove the remnants of Qing authority from the region.

Piracy, which had been endemic in South China for centuries, encouraged the development of a unique form of cooperation between the British and Qing empires built on compromise and collaboration. Their joint efforts succeeded in largely suppressing piracy by the end of the century and was no longer vital to British and Qing interests. With the eviction of the Kowloon authorities, to whom British officials first began sending captured pirates, the original arrangements of Anglo-Qing collaborative imperial hydrarchy ceased to exist.¹⁰⁶ An early and

¹⁰⁴ See Henry Sze Hang Choi, *The Remarkable Hybrid Maritime World of Hong Kong and the West River Region in the Late Qing Period* (Leiden: Brill, 2017), chapter five. Piracy also saw a resurgence in chaos of the collapse of the Qing dynasty in 1912. Robert J. Antony, 'Piracy on the South China Coast through Modern Times' in *Piracy and Maritime Crime: Historical and Modern Case Studies* ed. Bruce A. Elleman, Andrew Forbes, and David Rosenberg (Newport: Naval War College Press, 2010), 45-46.

¹⁰⁵ Robert Bickers, *The Scramble for China: Foreign Devils in the Qing Empire, 1832-1914* (London: Penguin, 2012), 327-332. Carroll, *Concise History*, 68-69.

¹⁰⁶ More than a century later, one aspect of collaborative imperial hydrarchy, namely the extradition of pirates to China, casts a long and problematic shadow. The British rendition of pirates to Qing authorities set a precedent for a regime of extradition and deportation. See Christopher Munn, *Anglo-China: Chinese People and British Rule in Hong Kong, 1841-1880* (Hong Kong: Hong Kong University Press, 2009; originally published Curzon Press, 2001), 349. In June 2019, the government of the Hong Kong Special Administrative Region, the successor to the colonial government, attempted to pass a bill authorising the extradition of criminals to the People's Republic of China, Macau, and Taiwan. Opposition to this bill produced some of the worst unrest to befall Hong Kong since 1997.

unique form of cooperation between Britain and China in an era of British imperial encroachment and Qing decline had run its course.

Conclusion:

Conflict, Compromise, and Collaborative Imperial Hydrarchy

In the century after the HMS *Providence* incident in 1800, which laid bare discrepancies between British and Qing understandings of piracy, British colonial authorities, diplomats, and naval officers in China worked with local and metropolitan Qing officials to develop a system of cooperation for dealing with the problem of Chinese pirates. As this thesis has shown, such collaboration required compromise, which redefined piracy on the China coast and provides a new angle from which to assess relations between the British and Qing empires. The development of a cooperative system was neither smooth nor inevitable but arose from local circumstances. Collaborative activities at times transgressed the limits of each side's authority or impinged on the sovereignty of the other party requiring further interactions and negotiations. Nor, despite pirates being a common threat to British and Qing interests, was cooperation without incident or even conflict. Nonetheless, agents of the British and Qing states worked together to control lawless seafarers. The mutual efforts initiated by the Kowloon authorities and the colonial government of Hong Kong, as discussed in Chapter Two, expanded into a *modus vivendi* in which British and Qing power, authority, and jurisdiction complemented each other in suppressing piracy. This system, despite the friction mentioned throughout this thesis, reduced threat pirates posed to British and Qing interests to the point that colonial officials in Hong Kong were willing to remove the Kowloon authorities with whom they first began cooperating against pirates. Studying the tortuous development of a collaborative imperial hydrarchy between the Qing and British empires for controlling the waters of South China provides a unique perspective on the international relations and the history of the China coast in the nineteenth century.

British and Qing officials' interactions in dealing with piracy produced a unique system of cooperation. This thesis has argued that concerted efforts against pirates, based on contingency and convenience, brought into contact differing notions of piracy. The inability to impose the

international and maritime law of the West beyond and sometimes even within the waters of Hong Kong reveals the limits of British power in China. As *hostes humani generis* in the law of nations, pirates, at least in the British understanding, were by definition international criminals justifying cooperation between different states against them. Elsewhere in Asia, particularly the Malay Archipelago, British officials attempted to negotiate treaties with various polities in the region containing clauses to police piracy. When such treaties failed to produce results, allegedly piratical activity became a justification for British intervention culminating in imperial expansion in the region.¹ British interactions with the Qing government followed a different trajectory. The Treaty of Nanking ceded Hong Kong to Britain, and the Convention of Peking listed maintaining order as a justification for the cession of Kowloon, but British territorial sovereignty in China remained limited to the island and adjacent peninsula until the end of the century. The Qing Empire may have been subject to ‘unequal’ treaties and asymmetrical relations with imperial Britain, but it remained a separate entity over which British influence was limited. British authorities never exerted the kind of control in China that their counterparts had over the Straits Settlements or India. The limits of British power in China meant that indigenous affairs and agents had more influence over maritime developments.² Qing mandarins thus played a greater role in negotiating the status of pirates than Malay sultans, Indian princes, or Arab emirs.³ Through participation, however unequal at times, with British efforts, Qing agents ensured they had a say in the practices and treaty stipulations for suppressing piracy, which had implications for the limits of British and Qing state power in China, China’s engagement with international law in the nineteenth century, and Anglo-Qing relations more broadly.

¹ Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800-1850* (Cambridge, MA: Harvard University Press, 2016), 119-121. Simon Layton, ‘Hydras and Leviathans in the Indian Ocean World’, *International Journal of Maritime History* 25, no. 2 (December 2013), 217-222.

² Anne Reinhardt, *Navigating Semi-Colonialism: Shipping, Sovereignty, and Nation-Building in China, 1860-1937* (Cambridge, MA: Harvard University Press), 60-61.

³ On piracy and British treaties in the Persian Gulf, see Patricia Risso, ‘Cross-Cultural Perceptions of Piracy: Maritime Violence in the Western Indian Ocean and Persian Gulf Region during a Long Eighteenth Century’, *Journal of World History* 12, no. 2 (Fall 2001), 314-316.

Piracy and Sovereignty in South China

Piracy reflected the limits of state power. The frequency of piratical attacks in the waters of South China during the second half of the nineteenth century suggests that neither the Qing nor British states had the capacity to effectively control the region. The examples of Koxinga and the *ladrones* proved that Chinese piratical activity could exceed Qing capabilities to suppress it. Though pirates like Shap-ng-tsai in the mid-nineteenth century never assembled fleets comparable to those of their predecessors, Chinese piracy by this time was no longer a problem for Qing authorities alone. During the *ladrones* crisis, the Jiaqing Emperor considered piracy an issue strictly within Qing remit and refused British offers of assistance on the grounds that accepting British aid would damage imperial prestige. Governor-General Bailing accordingly refused to discuss the matter with Captain Francis Austen of HMS *St. Albans* in 1809.⁴ With the establishment of Hong Kong as a British colony, however, one of Bailing's successors reckoned 'capturing and dealing severely [with pirates] would certainly produce mutual peace between Chinese and foreigners'.⁵ The colonisation of Hong Kong entailed British involvement in efforts against piracy, which this thesis argues indeed impacted Anglo-Qing relations. Some British actions against Chinese pirates, as discussed in Chapter Three, violated Qing maritime and terrestrial sovereignty. The efficacy of Royal Navy in such instances, however, drew wary approval from Qing authorities at Canton.

Though local Qing officials cooperated with British efforts against pirates and expressed appreciation for such activity, Qing understandings of piracy and its legal implications did not initially change as a result of collaboration with British authorities. Unlike treaties with Southeast Asian rulers or those on the Pirate Coast, the post-Opium War treaties did not discuss

⁴ Stephen Platt, *Imperial Twilight: The Opium War and the End of China's Last Golden Age* (London: Atlantic Books, 2018), 111-114. Captain Francis was the elder brother of Jane Austen. Their younger brother, Charles, would become commander-in-chief of the East Indies and China Station in 1850. Gerald S. Graham, *The China Station: War and Diplomacy, 1830-1860* (Oxford: Clarendon Press, 1978), 275.

⁵ Qiying to Davis, Daoguang reign, 24th year/6th month/9th day (21 July 1844), Foreign Office Records (FO) Chinese Secretary's Office, Various Embassies and Consulates, China: General Correspondence (682)/1977/112, The National Archives (TNA), Kew, UK.

piracy.⁶ Despite having the second largest division of the Royal Navy on hand, British authorities on the China coast could not use piracy to justify intervention and imperial expansion. International and Qing municipal law limited the actions British warships could take against Chinese pirates. Differences between British and Qing understandings of piracy and their respective jurisdictions over it helped prevent an exercise of the ‘imperialism of free seas’ in China, the colonisation of Kowloon explored in Chapter Six being a notable exception.⁷ Though Qing officials tolerated British violence against Chinese subjects in the waters, islands, and even mainland territories of the Qing Empire on the basis of such action helping maintain order on the coast, they did not accept the British notion of piracy as a crime under universal jurisdiction. Xu Guangjin’s initial insistence that Chui Apo was under the sole jurisdiction of Qing law and Ye Mingchen’s unwavering belief that his subordinates had the right to arrest pirates onboard the *Arrow* demonstrate the limited impact Anglo-Qing cooperation against pirates had on changing Qing understanding and acceptance of international law before 1856. The analysis in Chapter Four shows how disagreements led to a war, which forced an agreement between Britain and China on a transnational law of piracy on the China coast; piracy as discussed in the Treaty of Tientsin was also a compromise in which British negotiators gave up pretensions of subjecting Chinese pirates to universal jurisdiction. Qing conceptions of Chinese piracy as a crime strictly within Qing jurisdiction and authorities like Xu and Ye’s insistence on exercising sovereignty over pirates left a mark on stipulations regarding piracy in the Treaty of Tientsin.

Qing statesmen saw treaties with the West as a compromise between Chinese and international law. Through interpreting and implementing such treaties, Qing officials could influence the treaty regime, which stood in the place of international law in China.⁸ The Treaty of Nanking and subsequent transnational agreements between the Qing Empire and Western

⁶ Due to the frequency of maritime plunder by the Qawasimi, the western coast of what is now the United Arab Emirates, was known as the ‘Pirate Coast’, later becoming the ‘Trucial Coast’ after rulers signed a treaty in which they agreed to suppress piracy. Risso, ‘Cross-Cultural Perceptions’, 315.

⁷ Simon Layton, ‘The “Moghul’s Admiral”: Angrian “Piracy” and the Rise of British Bombay’, *Journal of Early Modern History* 17 (2013), 80. Idem, ‘Hydras’, 224.

⁸ Arnulf Becker Lorca, *Mestizo International Law: A Global Intellectual History, 1842-1933* (Cambridge: Cambridge University Press, 2014), 87.

states, many of which were coerced, admitted it into the emerging order of European-dictated international law albeit on uneven terms.⁹ Indeed, according to Governor and Superintendent of Trade John Davis, with the ratification of the Treaty of Nanking, ‘the assent of the Emperor confirmed the treaty which the power of the Queen dictated – Having thus been admitted, or rather compelled, for the first time in the history of the world, into the family of civilized nations, the Chinese are fully entitled to all the rights’.¹⁰ His language, however, betrays the inequality between the signatories. The history of the introduction of international law to China casts a long shadow, and more recent regimes in China have remained wary of its implications for their maritime sovereignty.¹¹ Though the treaties discussed in this thesis resulted from wars and were largely drawn up by triumphal British negotiators, concessions to the Qing such as extraditing pirates to Qing jurisdiction and the acceptance of the Chinese understanding of their legal status in the Treaty of Tientsin reveal some of the influences of Qing concepts and practice. The vehicles for the Qing government’s recognition in the wider world were also means its agents to assert their own ideas of their sovereignty and jurisdiction into the regime of international law in China.

The Anglo-Qing handling of pirates serves as a useful foil to better known manifestations of the British exercise of sovereignty in China and reveals a different dynamic between British and Qing assertions of sovereignty over persons on the China coast. As discussed in Chapter One, British officials zealously established Hong Kong as an island of sovereignty and English law, which was seen as a matter of prestige and a key attribute of British civilisation. The rejection of Qing extraterritorial jurisdiction over Chinese in Hong Kong coincided with the expansion of such privileges for British authorities in China. The British state constructed an elaborate

⁹ Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge: Cambridge University Press, 2004), 73-76.

¹⁰ Davis to Stanley, 21 December 1843, Colonial Office Records (CO) Original Correspondence, Hong Kong (129)/4, 278, TNA.

¹¹ In 2016, the government of the People’s Republic of China rejected a ruling by the Permanent Court of Arbitration at the Hague regarding the limits of Chinese authority in the South China Sea. See Stefan A.G. Talmon, ‘The South China Sea Arbitration: Observations on the Award of 12 July 2016’, *Bonn Research Papers on Public International Law*, no. 14 (2018), 2-99.

apparatus of extraterritorial courts and regulations in China, which was part of a wider network of judicial establishments connecting China to the rest of the British Empire. After 1865, with the establishment of Supreme Court for China and Japan in Shanghai, the British legal regime in the treaty ports was separated from that of Hong Kong.¹² Foreign Office personnel drew on their experience in creating a regime of extraterritoriality in the Ottoman Empire to establish this new legal institution, which became an important component of the British state in China. Though significant for the British presence in China, the court was a strictly British institution and largely isolated from Qing law, drawing from the experience of courts elsewhere in the British Empire rather than interactions with Qing courts.¹³ Indeed, extraterritoriality was a means of insulating British subjects from the perceived arbitrariness and barbarity of Chinese justice.¹⁴ Piracy proved an odd exception. As discussed in Chapter Two, colonial officials recognised the efficacy with which the Qing criminal justice system could prosecute piracy, which underpinned the British practice of extraditing pirates to Kowloon. Despite notable exceptions, such as the British refusal to cede jurisdiction over pirates on the *Arrow* to Qing authorities, the tendency to let Qing justice handle cases of piracy was later institutionalized by extradition clauses in Anglo-Qing treaties. Whereas British officials generally sought to protect those under their jurisdiction from Qing justice, in the case of pirates, by the law of nations under universal jurisdiction, Qing involvement was usually accepted and even requested. The common threat posed by pirates brought together disparate legal systems that practices of extraterritoriality in China sought to keep separate.

Piracy flourished in the absence of sovereignty. Neither the might of the Royal Navy nor the various Qing state agents in Guangdong could effectively exert control over the waters of South China. As an island of British sovereignty, Hong Kong disrupted the tenuous Qing order over the Canton Delta, and pirates navigated the interstices between the limits of British and

¹² Emily Whewell, 'British Extraterritoriality in China: The Legal System, Functions of Criminal Jurisdiction, and Its Challenges, 1833-1943' (PhD diss., University of Leicester, 2015), 1, 64-65.

¹³ Alexander Thompson, 'The British State at the Margins of Empire: Extraterritoriality and Governance in Treaty Port China, 1842-1927' (PhD diss., University of Bristol, 2018), 77-79.

¹⁴ Li Chen, *Chinese Law in Imperial Eyes: Sovereignty, Justice, and Transcultural Politics* (New York: Columbia University Press, 2016), 185-186.

Qing sovereignty in the region to escape the law of both. In doing so, Chinese pirates inadvertently encouraged cooperation between Britain and China. The resulting Anglo-Qing collaborative imperial hydrarchy, like the pirates it was meant to control, also illuminates some of the workings and limits of British and Qing sovereignty on the China coast. In the Treaty of Tientsin, which codified cooperation against piracy, Britain relinquished the right by international law to exercise jurisdiction over Chinese pirates while Qing authorities recognised the Royal Navy's right to pursue pirates anywhere in China. British officials took treaty obligations seriously and attempts to ensure their Qing counterparts upheld the treaties gave the Qing government recognition as a sovereign if junior member in the family of nations. While the British institution of extraterritoriality in China, as well as some of the actions the Royal Navy took against piracy, violated Qing sovereignty, treaties and cooperation in suppressing piracy, a means by which Qing law and practice affected international agreements, helped to bolster it.

Collaborative Imperial Hydrarchy and Anglo-Qing Relations

A common cause against and agreement regarding pirates had wider implications for Anglo-Qing relations as revealed in comparisons with other forms of cooperation. In his magisterial work on the historical context surrounding the start of the Opium War, a conflict that has loomed so large in the history of modern China, Stephen Platt asserts that the lack of meaningful cooperation between Britain and China against the *ladrones* in the early nineteenth century was a foregone opportunity that contributed to divergent attitudes resulting in war.¹⁵ Belatedly, as this thesis shows, interactions between the Qing and British officers who succeeded Bailing and Captain Austen produced a consensus regarding pirates. With colonial officials in Hong Kong sending pirates to the Kowloon authorities as early as 1842, piracy helped catalyse an early form of cooperation between Britain and China in the aftermath of the Opium War. As British warships so recently engaged in acts of war on the China coast instead turned their guns on pirates, Qing officials saw the benefits of British naval power. The Royal Navy in South China

¹⁵ Platt, *Imperial Twilight*, 118.

quickly transformed from a tool for gunboat diplomacy to an indispensable ally against a common enemy. The Kowloon authorities' request for British assistance and participation in a joint expedition against pirates in 1845 shows that Anglo-Qing cooperation suppressing piracy predates an institution that has become the paragon Sino-foreign interaction and influence, the Imperial Maritime Customs.¹⁶

Piracy threatened trade, the *raison d'être* for the British presence in China. Ensuring the continuance of this trade to the mutual benefit of Britain and China required its protection. British warships first appeared in China to protect East Indiamen and their valuable cargoes. The principal function of the East Indies and China Station was to protect British interests, which trade largely predominated, hence the Royal Navy's early activities against pirates. Clearing the seas of pirates was an important precondition for the expansion of trade from which customs revenue derived. In this sense, the *modus vivendi* between Britain and China for suppressing piracy was a precursor to the Imperial Maritime Customs. To the extent that the Marine Department of the Customs Service helped establish and maintain control over the sea space and seafarers off the China coast, the Customs could meaningfully be considered a part of collaborative imperial hydrarchy.¹⁷ Despite overlaps and similarities with the Customs Service, the Anglo-Qing suppression of piracy was a distinct arrangement involving different institutions and thus provides a contrasting angle from which to assess relations efforts at maritime control.

While the Imperial Maritime Customs and its foreign staff were part of the Qing bureaucracy, the participants in Anglo-Qing efforts against pirates had no such hybridity or national ambiguity.¹⁸ Murakami Ei suggests that Qing reliance on the Royal Navy amounted to

¹⁶ See Hans van de Ven, *Breaking with the Past: The Maritime Customs Service and the Global Origins of Modernity in China* (New York: Columbia University Press, 2014) and Robert Bickers, *The Scramble for China: Foreign Devils in the Qing Empire, 1832-1914* (London: Penguin, 2012), chapter seven.

¹⁷ Van de Ven, *Breaking*, 19. Bickers, *Scramble*, 264-269

¹⁸ Bickers, *Scramble*, 193-195. The difference between the Customs and British state institutions is highlighted by the 'Blockade of Hong Kong' discussed in Chapter Seven when Governor MacDonnell requested that the Royal Navy deploy ships to deter encroachment on Hong Kong by Qing customs vessels.

a Qing co-optation of British naval power to uphold maritime order.¹⁹ Some Qing officials indeed hoped to rely on the British warships to deal with intractable subjects, but the Qing government and the Royal Navy were two distinct entities, unlike the Customs. British naval officers and their civilian counterparts in China were undoubtedly British subjects working for the British state just as Qing authorities on the coast were accountable to Beijing. Nonetheless, their interactions had an important impact on Anglo-Qing relations, including building rapport and facilitating the trade upon which the Customs was built. As the first four chapters of this thesis show, British discussions with Qing officials about and cooperation against piracy broached issues of international law long before the establishment of the Customs or the Zongli Yamen's efforts to translate treatises on the law of nations.²⁰ These activities had an impact on the treaty regime governing the relations between China and Britain discussed in Chapters Two and Five. Though dominated by Britain and China, collaborative imperial hydrarchy, like the Imperial Maritime Customs, involved international participation, with Annamese involvement in the expedition against Shap-ng-tsai and Portuguese and American forces forming part of the coalitions sent to Coulan mentioned in Chapter Three, all of which occurred before the formal establishment of the Customs. Cooperation between Britain and China against piracy predated that for customs collection and was built on a different institutional basis. A comparison of the impacts these two forms of cooperation had on Anglo-Qing relations, while beyond the scope of this thesis, merits further research.

Comparing the Anglo-Qing system of cooperation against pirates with other forms of collaboration between Britain and China, such as the British intervention during the Taiping Rebellion, also expose its distinctiveness. Chapter Three has discussed the impact the Taiping and other mid-nineteenth century uprisings had on the China coast. As the Taiping Rebellion

¹⁹ Murakami uses the term *shaofu* to describe the relationship between Qing officials and the Royal Navy. Murakami Ei, *Haiyang shishang de jindai Zhongguo: Fujianren de huodong yu Yingguo Qingchao de yinying* [A Modern Maritime History of China: Fujianese Activity and British and Qing Responses], trans. Wang Shilun (Beijing: Social Sciences Academic Press, 2013), 238.

²⁰ On the Qing engagement with international law through translation, see Rune Svarverud, *International Law as World Order in Late Imperial China: Translation, Reception and Discourse* (Leiden: Brill, 2007), chapter three.

was concentrated in the Yangtze valley, far to the north of Guangdong, this thesis only makes passing references to it, but the astonishing scale of the uprising impacted China's relations with foreign countries, particularly at the treaty port of Shanghai, which eclipsed Canton as the principle port for foreign maritime trade in the mid-nineteenth century. When the Taipings threatened the valuable trade conducted at Shanghai in August 1860, British and French forces supported Qing troops in attacking rebels in the area even as a different allied contingent was advancing towards Beijing to force the ratification of the Treaty of Tientsin. Jonathan Chappell argues that the differing policies at Shanghai and the Peiho are examples of the different 'bridgeheads' of foreign interest in China.²¹ The strength of the ties between these bridgeheads and their metropolises was a key determinant of whether metropolitan governments would countenance armed intervention and the prospect of establishing an imperial presence beyond them. In the early 1860s, British interests in Shanghai were significant enough to justify armed intervention for their defence but attempts to expand into a protective buffer beyond Shanghai met with disapproval in Westminster. The British government instead settled on a policy of protecting the treaty ports and indirect intervention by providing Qing forces with arms and expertise, a tactic less costly and likely to result in imperial expansion, which Britain could ill afford.²² This indirect intervention included the assembly of the Lay-Osborn flotilla, a predecessor to the Guangdong steam squadron discussed in Chapter Six.

Unlike the brief and limited intervention against the Taipings, British activity against piracy, as revealed in this thesis, was sustained throughout the nineteenth century. The violence wrought by the Royal Navy against Chinese ships and villages in campaigns against piracy had many of the same implications as British actions during Taiping civil war. In the prelude to the destruction of Oudingxiang discussed in Chapter Six, Vice-Admiral Henry Keppel believed an attack was justified on the grounds that 'Piratical Villagers' were 'not merely at war with

²¹ Jonathan Chappell, 'The Limits of the Shanghai Bridgehead: Understanding British Intervention in the Taiping Rebellion, 1860-62', *Journal of Imperial and Commonwealth History* 44, no. 4 (2016), 539.

²² Ibid, 539-543. Van de Ven argues the establishment of the Imperial Maritime Customs was a sign of British and French imperial weakness and a way 'to offload formal responsibility for regulating and taxing the Qing's overseas trade'. Van de Ven, *Breaking*, 27.

themselves but with society generally'.²³ As *hostes humani generis* in the British understanding, pirates were a distinct type of enemy, one at war with the world. British naval officers could treat pirates as belligerents, and rules of neutrality did not apply, though the Small Swords Uprising and the outbreak of the *Arrow* War complicated this situation. Furthermore, though the pirates in this thesis operated from territorial bases, including the island of Hong Kong, they were not affiliated with any state as they were enemies of the Qing government, which exercised clear sovereignty.²⁴ As such, there was little chance that armed action against pirates on the China coast would result in costly wars or territorial acquisition. The bridgeheads involved in suppressing piracy extended out to sea, where multiple states could exercise control without impinging on the sovereignty of others.²⁵ Intervention in the maritime sphere had fewer repercussions than on Qing territory. Thus, cooperating with Qing efforts against a common enemy at sea did not entail the same risks it did on land and could be sustained for a much longer period. Collaborative imperial hydrarchy was a unique form of cooperation between Britain and China involving separate state institutions cooperating against a common enemy.

With the colonisation of Hong Kong, the British state had an interest in suppressing Chinese piracy.²⁶ The limits of British and Qing power in the waters of South China drove officials on either side of Victoria Harbour to cooperate in controlling neighbouring waters. This system of cooperation spread along the coast and even to waters beyond the maritime jurisdiction of Britain or China. Though Anglo-Qing collaboration produced impressive victories against pirates, disagreements stemming from the status of these pirates in different legal systems emerged, none more consequential than the jurisdiction Qing and British officials claimed over pirates on the *Arrow* in 1856. The treaties ending the *Arrow* War mandated cooperation against

²³ Keppel to Jones, 26 January 1869, ADM 125/14, 196.

²⁴ As discussed above and in the introduction, the distinction between pirates and sovereigns could be blurred, particularly in Southeast Asia.

²⁵ Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1800* (Cambridge: Cambridge University Press, 2010), 123.

²⁶ Jonathan Chappell, 'Maritime Raiding, International Law and the Suppression of Piracy on the South China Coast, 1842-1869', *The International History Review* 40, no. 3 (2018), 474.

pirates and codified a consensus on the law of piracy in China, which compromised between British and Qing conceptions of the jurisdiction each could exert over them. The treaties established a basis for closer cooperation against piracy, which produced new methods and policies for suppressing it. These measures also entailed further accommodation between laws and policies adopted in Hong Kong and Canton. By the end of the nineteenth century, the problem of piracy, which had prompted unprecedented degrees of cooperation between Britain and China, was largely resolved to the point that it was overshadowed by other concerns, and the original system developed between Hong Kong and Kowloon disappeared along with the Qing presence on the peninsula. Though sometimes with reservations and reluctance, Qing and British officials interacted and complemented each other's efforts create a collaborative imperial hierarchy to maintain maritime order and check piracy. Designs against a common foe produced a unique, cooperative relationship between the British and Qing empires.

Glossary

| | |
|--|------------------|
| Amoy (Xiamen) | 廈門 |
| Andingmen | 安定門 |
| <i>Anlan</i> | 安瀾 |
| Annam (Annan) | 安南 |
| <i>aojia</i> | 澳甲 |
| <i>aozhang</i> | 澳長 |
| Bailing | 百齡 |
| <i>bao</i> | 保 |
| <i>baojia</i> | 保甲 |
| <i>baozhang</i> | 保長 |
| Beijing (Peking) | 北京 |
| Beishui | 北水 |
| Beng Ya | 崩牙 |
| Beng Yasong | 崩牙松 |
| Bogui | 柏貴 |
| Bohai (Gulf of Pecheli) | 勃海 |
| Bo-lu (Block) | 波碌 |
| <i>canjiang</i> (lieutenant-colonel) | 參將 |
| Canton (Guangzhou) | 廣州 |
| Caochong | 曹冲 |
| Chaguoling | 茶果嶺 |
| Chaozhou | 潮州 |
| Chek Chu (Chizhu, Stanley) | 赤柱 |
| Chen Deng | 陳登 |
| Chen Xianliang | 陳顯良 |
| Cheng Yucai | 程裔采 |
| <i>Chengqing</i> | 澄清 |
| Chepi (Chaypee) | 車陂 |
| Cheung Chau (Changzhou) | 長洲 |
| Chintae (Chen Da, Chen Yada, Chen Tai, Chen Yatai) | 陳大, 陳亞大, 陳太, 陳亞太 |
| Chuenpi (Chuanbi) | 穿鼻 |
| Chui Apo (Xu Yabao) | 徐亞保 |
| Coulán (Gaolan, Kulan, Kuhlan) | 高欄 |
| Cumsingmoon (Jinxingmen) | 金星門 |
| <i>Da Qing lüli</i> | 大清律例 |
| Dagu (Taku) | 大沽 |
| Dahuoshan | 大鑊山 |
| Dan(jia) (Tanka) | 蛋(家) |
| Daoguang | 道光 |
| Dapeng (Taepang) | 大鵬 |
| Dapeng Wan (Mirs Bay) | 大鵬灣 |
| Daxingwei (Tysami) | 大星尾 |
| Daya Wan (Bias Bay) | 大亞灣 |
| Denglongzhou (Kellett Island) | 燈籠洲 |
| Dengqing | 澄清 |
| Dengzhou (Yantai, Chefoo) | 登州(煙台) |
| Dianbai | 電白 |

| | |
|---|---------|
| Dongguan | 東莞 |
| Duan Chengshi | 段承實 |
| Duntou | 墩頭 |
| Duzigang | 獨子崗 |
| Fan (Fanny Loviot) | 番 |
| Fan Yasi | 樊亞四 |
| Fang Yan | 方沿 |
| Fatshan (Foshan) | 佛山 |
| <i>Feilong</i> | 飛龍 |
| Feng Attai (Feng Yadi) | 馮亞帝 |
| Fujian | 福建 |
| <i>fujian</i> (colonel) | 副將 |
| Fuyong | 福永 |
| Fuzhou | 福州 |
| Gaozhou | 高州 |
| Gong Qinwang Yixin (Prince Gong) | 恭親王 奕訢 |
| gonghang (Cohong) | 公行 |
| Guanfu | 官富 |
| Guangdong | 廣東 |
| <i>Guangsi</i> | 廣巳 |
| Guangxi | 廣西 |
| Guiliang | 桂良 |
| Guishan | 歸善 |
| Guo Chaofan | 郭超凡 |
| Guo Podai | 郭婆帶 |
| <i>guoxingye</i> | 國姓爺 |
| Haiguan (Customs [Superintendent], Hoppo) | 海關 |
| Haihe (Peiho, Baihe) | 海河 (白河) |
| <i>haijin</i> | 海禁 |
| <i>haikou</i> | 海寇 |
| Haikou | 海口 |
| Hainan | 海南 |
| <i>haini</i> | 海逆 |
| <i>haizhan</i> | 海戰 |
| Hakka (Kejia) | 客家 |
| Han | 漢 |
| Han (River) | 韓 |
| <i>hanjian</i> | 漢奸 |
| He Fang | 何芳 |
| He Feixiong | 何飛熊 |
| He Guiqing | 何桂清 |
| Hengfu | 恆福 |
| <i>Hing Lung</i> (Xinglong) | 興隆 |
| Houhai (Deep Bay) | 后海 |
| Huafeng | 花封 |
| Huang Baidou | 黃白豆 |
| Huang Chaoqun | 黃超羣 |
| Huang Kaiguang | 黃開廣 |
| Huang Liankai | 黃聯開 |
| Huang Tingbiao | 黃廷彪 |

| | |
|--|-------|
| Huang Xinguang | 黃信光 |
| Huang Zonghan | 黃宗漢 |
| Huashana | 花沙納 |
| Huizhou | 惠州 |
| Humen (Bogue, Bocca Tigris) | 虎門 |
| <i>huoyaobao</i> (stinkpots) | 火藥煲 |
| <i>jia</i> | 甲 |
| Jiang Yayou | 蔣亞有 |
| Jiang Yili | 蔣益澧 |
| Jiangnan | 江南 |
| Jiangxi | 江西 |
| Jiaqing | 嘉慶 |
| Jiazi (Cupchi, Capchi) | 甲子 |
| <i>jiazhong</i> | 甲總 |
| Jiujiang | 九江 |
| Kangxi | 康熙 |
| Kat-O (Ji'ao, Crooked Island) | 吉澳 |
| Kowloon (Jiulong) | 九龍 |
| Koxinga (Zheng Chenggong) | 鄭成功 |
| <i>kuaichuan</i> (fast boat) | 快船 |
| <i>Kum Tsum Yik</i> (<i>Jinquanyi</i>) | 金全益 |
| Kwok Acheong | 郭亞祥 |
| Lai Enjue | 賴恩爵 |
| Lai Yuanqing | 賴元慶 |
| Lai Zhenbian | 賴鎮邊 |
| Lamma (Nanya) | 南丫 |
| Lantau (Dayushan) | 大嶼山 |
| Lao Chongguang | 勞崇光 |
| Leung Shun Wan (Liangchuanwan) | 糧船灣 |
| <i>li</i> | 里 |
| Li Rongsheng | 李榮陞 |
| Li/Liang Mingtai | 李/梁明太 |
| Liang Baochang | 梁寶常 |
| Liang Guoding | 梁國定 |
| Liang Jianfu | 梁建富 |
| Lin Weixi | 林維喜 |
| Lin Yaqi | 林亞七 |
| Lin Zexu | 林則徐 |
| Lintin (Lingding) | 伶仃 |
| Liu Yashi | 劉亞實 |
| Liu Yongfu | 劉永福 |
| Lo Aqai (Lu Yagui) | 盧亞貴 |
| Longjin (name of jetty of the Kowloon Walled City) | 龍津 |
| Lü Xianji | 呂賢基 |
| Luo Yatian | 羅亞添 |
| Lyemoon (Liyumen) | 鯉魚門 |
| Macau (Macao, Aomen) | 澳門 |
| Man Mo (Wenwu) | 文武 |
| Mao Feipeng | 毛飛鵬 |
| Mao Hongbin | 毛鴻賓 |

| | |
|---|----------|
| Mei (Prefect of Guangzhou) | 梅 |
| Meng'ala (Bengal) | (口旁)孟啊喇 |
| Ming | 明 |
| Modaomen (Moto) | 磨刀門 |
| Nan'ao | 南澳 |
| Nanhai | 南海 |
| Nanjing (Nanking) | 南京 |
| Nanshui | 南水 |
| Naozhou | 碭州 |
| Nayancheng | 那彥成 |
| <i>neihai</i> | 內海 |
| Ningbo | 寧波 |
| Niuzhuang (Yingkou) | 牛庄(營口) |
| Oudingxiang (Ou-ting-poi) | 鷗汀鄉 |
| <i>pa</i> (type of boat) | 扒 |
| Panyu | 番禺 |
| Pinghai | 平海 |
| Qianlong | 乾隆 |
| Qianshan | 前山 |
| <i>qianzong</i> (lieutenant) | 千總 |
| Qigong | 祁墳 |
| Qiling | 耆齡 |
| Qin | 秦 |
| Qing | 清 |
| Qiongzhou | 瓊州 |
| Qishan | 琦善 |
| Qiyong (Keying, Kiying) | 耆英 |
| Qundailu | 裙帶路 |
| Raoping | 饒平 |
| Ruilin | 瑞麟 |
| Sanzhoutang | 三洲塘 |
| Sengge Rinchen (Senggelinqin) | 僧格林沁 |
| Shamian (Shameen) | 沙面 |
| Shandong | 山東 |
| Shang (Major commanding the Beishui expedition) | 尚 |
| Shangchuan (St. John's Island) | 上川 |
| Shanghai | 上海 |
| Shanwei | 山尾 |
| Shap-ng-tsai (Shiwuzi, Zhang Kaiping) | 十五仔(張開平) |
| Shen Zhenbang | 沈鎮邦 |
| Shen, Magistrate of Guishan | 沈 |
| Shi Lang | 施琅 |
| <i>shoubei</i> (commandant) | 守備 |
| Sow-ah-pow (Shaoaopu) | 勺凹浦 |
| Su Yacheng | 蘇亞成 |
| <i>Suijing</i> | 綏靖 |
| Sun Shiyi | 孫士毅 |
| Swatow (Shantou) | 山頭 |
| Tai Po (Dabu) | 大埔 |
| Tainan | 台南 |

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|--|--------|
| Taipa (Dangzai) | 氹仔 |
| Taiping | 太平 |
| Taiwan | 台灣 |
| Tan Jiao | 譚蛟 |
| Tianjin (Tientsin) | 天津 |
| <i>tingdao</i> | 艇盜 |
| <i>tingfei</i> | 艇匪 |
| <i>tixing ancha shi si</i> (judicial commissioner) | 提刑按察使司 |
| Tongzhou | 通州 |
| Tsim Sha Tsui (Jianshazui) | 尖沙嘴 |
| <i>tuanlian</i> | 團練 |
| <i>tuo</i> (type of ship) | 拖 |
| <i>waihai</i> | 外海 |
| Wang Cunshan | 王存善 |
| <i>wangming xianxing zhengfa</i> | 王命先行正法 |
| <i>weiyuan</i> | 微員 |
| Wen (Colonel of Dapeng) | 溫 |
| Wenxiang | 文祥 |
| Whampoa (Huangpu) | 黃埔 |
| Wong Ma Kok (Huangmaojiao) | 黃茅角 |
| Wu Diwen | 吳迪文 |
| Wu Guanyu | 吳觀玉 |
| Wu Xiongguang | 吳熊光 |
| Wu Yaren | 吳亞認 |
| Xiachuan (Hawcheun) | 下川 |
| Xiangfeng | 咸豐 |
| Xianggang (Hong Kong) | 香港 |
| Xianggangzai (Aberdeen) | 香港仔 |
| Xiangshan | 香山 |
| Xijiang (West River) | 西江 |
| Xin'an | 新安 |
| Xincun | 新村 |
| Xinning | 新甯 |
| Xu Guangjin | 徐廣縉 |
| Xu Guitian | 徐桂田 |
| Xu Wenshen | 許文深 |
| <i>xunfu</i> (governor) | 巡撫 |
| <i>xunjian</i> (deputy magistrate) | 巡檢 |
| Yaimen | 崖門 |
| Yangtze (Yangzi, Changjiang) | 揚子, 長江 |
| Yau Ma Tei (Youmadi) | 由麻地 |
| Ye Mingchen | 葉名琛 |
| <i>yi</i> (barbarian) | 夷 |
| Yiliang | 怡良 |
| Yishan | 奕山 |
| <i>yong</i> | 勇 |
| Yongzheng | 雍正 |
| <i>youji</i> (major) | 遊擊 |
| Yuanmingyuan (Summer Palace) | 圓明園 |
| Yue | 越 |

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|---|------------|
| Yuen Long (Yuanlang) | 元朗 |
| Zhang Bao | 張保 |
| Zhang Sanfu | 張三福 |
| Zhang Yutang | 張玉堂 |
| Zhang Zhaodong | 張兆棟 |
| Zhang Zhidong | 張之洞 |
| <i>Zhanzhibei (Sir Jamsetjee Jeejeebhoy)</i> | 占之杯 |
| <i>zhaofu</i> | 招撫 |
| Zhejiang | 浙江 |
| Zheng Dong (Chingtung) | 鄭棟 |
| Zheng Yi | 鄭一 |
| Zheng Yi Sao | 鄭一嫂 |
| Zheng Zhilong | 鄭芝龍 |
| <i>Zhenhai</i> | 鎮海 |
| Zhenjiang | 鎮江 |
| <i>Zhentao</i> | 鎮濤 |
| <i>zhifu, shou</i> (Prefect) | 知府, 守 |
| Zhilalaba (Jalalabad) | 治拉拉拔 |
| Zhili | 直隸 |
| <i>(zhi)xian</i> (magistrate) | (知)縣 |
| Zhong Changfeng | 鐘長鳳 |
| <i>zongbing, zongzhen</i> (brigadier-general) | 總兵, 總鎮 |
| <i>zongdu</i> (governor-general, viceroy) | 總督 |
| Zongli (Geguo Shiwu) Yamen | 總理(各國事務)衙門 |

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